

## **The complaint**

Mr B complains about the way that U K Insurance Limited trading as Churchill Home Insurance (UKI) dealt with his home insurance claim for accidental damage caused to his property by a neighbour building an extension. Though the claim was mostly run by loss adjusters, for convenience I shall refer to UKI throughout unless I say otherwise. Mr B is elderly and vulnerable, lives alone and has mobility problems.

## **What happened**

In 2021 Mr B's attached neighbours obtained planning permission to build an extension. Mr B was approached to sign some papers under the Party Wall Act concerning the extension. He sought legal advice under his policy and was told it was probably surveyors touting for business. He was advised to take photos of his house before building started.

The work for the extension started in around August 2021. In fact the neighbour decided to completely demolish their property save for the front elevation and rebuild on a larger footprint. This left the party wall exposed. Mr B noticed that damp was affecting his property and cracks in the plaster were appearing. He made an initial claim to UKI in September 2021 and decided he wanted to proceed with that claim in early December. UKI appointed loss adjusters who carried out a site visit on 20 December. The report was referred back to UKI. It was decided to appoint a surveyor who visited the property in mid-January 2022. This was reported back to Mr B in early February – there were no structural concerns and the cracks were said to be cosmetic. Mr B advised that he was due to go into hospital at the beginning of March for an operation and didn't want any work done until after that.

Mr B called UKI back in mid-March 2022 as he wanted to go ahead. The driers were put in at the end of March. Strip out then took place, including removing laminate flooring. Mr B was concerned that there was asbestos present in the underlying floor tiles but was told this was safe. Drying was complete by 22 April, and the appointment of contractors was discussed with Mr B. The contractors' costs were approved by UKI at the end of May 2022. The claim was put on hold again as Mr B had to attend hospital again.

By early July Mr B was ready to proceed but because he was concerned about the floor tiles and believed his chest was affected, he removed them himself. UKI advised that an asbestos test needed to be done on any remaining elements of the tiles before it could proceed. Mr B was also concerned that the external cracks weren't going to be repaired. This was because the loss adjusters/surveyor said the cracks weren't a result of the neighbour's works but were due to wear and tear. However UKI did say to Mr B that if he could produce the photos of the area he'd taken before the neighbour's works began, and these showed no cracks, it would cover their repair.

The works commenced in early August, but the contractors walked off the job because they said Mr B had sworn at them. The plasterer was removed from the job because it was felt that he wasn't safe.

Mr B made a complaint to UKI. He was now able to show it the pre-building works photos, and because of this, when UKI gave its final response at the end of August, the claim in

respect of the external cracking was accepted.

UKI also noted that Mr B had been without flooring for several months. It said that the claim was held up as understandably Mr B didn't want contractors there while he was in hospital and then recuperating. But it said it should have explained the situation better to him, particularly surrounding the availability of contractors. It did say however that it had understood that Mr B was living a lot of time elsewhere staying with a friend.

UKI said that it was sorry that Mr B didn't like the attitude of the surveyor/loss adjuster who told him the external cracking wasn't covered. But it did say that the contractors had to be respected while they were on Mr B's property. In light of that it said it would be settling the claim on a cash basis to enable Mr B to get his own contractors.

Mr B had also been upset to be asked for the £250 excess when the drying process had used more than that amount of electricity

UKI said that due to the upset caused by its original decision over the external damage, the poor communication over the claim being put on hold, reimbursement of costs, the handlers changing and attitude Mr B felt from the original visit it was paying him £500.

On referral to the Financial Ombudsman Service, our Investigator said that that more account should have been taken of Mr B's vulnerabilities, particularly after the site visits and even when it received Mr B's letter of complaint in June 2022 (when he enclosed a letter from his doctor). They further said that UKI could have explained properly regarding the electricity costs. And that Mr B should have been offered alternative contractors rather than being pushed into a cash settlement, though Mr B said he now preferred to use his own contractors. They said that UKI should pay a further £400 compensation.

UKI agreed to this. But Mr B felt that he should be paid more.

The matter has been passed to me for further consideration.

### **What I've decided – and why**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Firstly as our Investigator has explained to Mr B, I can only look at his complaint up until the date of UKI's final response letter i.e. 31 August 2022. I understand that a separate complaint has been raised concerning matters after that date.

#### *delays*

Mr B was concerned about delays in dealing with his claim. I think here it was a matter of communication rather than any culpable delays on UKI's part. Mr B said he wanted to proceed with the drying after the surveyor's visit but not the full repairs. But it appears that having discussed it with him, the drying would have been just as intrusive as the repairs. So the major delays in starting work were mostly because of Mr B having to go to hospital on two occasions. Taking these into account, stripping out and drying was able to take place during April 2022.

Mr B then became concerned that the tiles left under the old laminate floor contained asbestos though he'd been assured they were safe. But he decided to remove them after suffering chest problems. This then caused some delay because the area had to be checked for asbestos (which was negative). So although I think UKI should have had better

communications about likely starting dates it wasn't responsible for the delays in getting the work under way.

#### *vulnerability*

I don't think that Mr B's vulnerability was recognised early enough. At the site meeting in early December and at the surveyor's meeting later that month, Mr B's problems with mobility should have been recognised especially as the flooring was to be stripped out. But I don't believe his claim was marked in that way until August 2022, even though Mr B had sent in a letter from his doctor setting out his physical and mental health problems.

In particular I note that it had been assumed that Mr B was living partly with a friend, though no conversation appears to have taken place with him about this. Whilst he did have washing and cooking facilities I do think more engagement should have been had with him about the possibility of alternative accommodation. This ties in with the lack of communication as if Mr B had realised that contractors wouldn't be able to start straight away after he returned from hospital and after the drying, he might have been in a better position to make a decision about it.

#### *loss adjuster*

I understand that Mr B was unhappy with the loss adjuster's attitude and UKI have apologised and paid compensation for this. I do think it could have offered another adjuster – that would have been a reasonable way of dealing with this here, rather than making Mr B uncomfortable having to deal with that loss adjuster.

#### *excess*

Normally any excess would be payable on starting the repairs. Here Mr B advised that the electricity costs for drying were more than the excess, so he couldn't understand why he was asked to pay the excess. UKI did later agree to offset the excess against the electricity costs and I note it agreed it should have done this in the first place.

#### *external cracking*

Mr B was insistent this cracking only appeared after the neighbour's works had started. UKI said the cracking was to the external render and was likely to be due to thermal movement and general wear and tear. Mr B says he showed evidence of this to the loss adjuster who visited (although there's no note of this in their report). It appears that the first time UKI saw the evidence was when he sent the photos to it in August, and it agreed to cover the repairs for this.

I think it was entirely plausible for the cracking to have been caused by the building work, especially as there was internal cracking. I've only seen notes of conversations and haven't seen a definitive surveyor's view or any photos taken by UKI of the relevant area. My view is that the external cracking should have been included in the original scope of repairs.

### *cash settlement*

UKI offered a cash settlement after the contractors refused to return to the job. It's not within my power to make findings about Mr B's conduct. But it is a serious matter if a contractor chooses to remove someone from a job. So I can't say UKI should have told the contractors to return. But normally if a consumer is unhappy with one contractor the business would offer an alternative contractor. I think in this instance Mr B was happier to appoint his own contractor where he would be able to know exactly what work was being done.

### *compensation*

Bearing in mind the period this decision covers, the compensation paid so far is £500. Our Investigator proposed that UKI increase this to £900, a payment of a further £400. Such an overall payment is appropriate where the impact of the business's poor service has caused substantial distress, upset and worry. And where there has been serious disruption to daily life over a sustained period, with the impact felt over many months. I think that applies in Mr B's case. So I think the overall award of compensation is fair.

### **Putting things right**

UKI should pay a further £400 compensation.

### **My final decision**

I uphold the complaint and require U K Insurance Limited trading as Churchill Home Insurance to provide the remedy set out under "Putting things right" above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 3 July 2023.

Ray Lawley  
**Ombudsman**