

The complaint

Ms C complains about UK General Insurance Limited (UKI) and their decision to decline the claim she made on her Touring Caravan insurance policy.

What happened

Ms C held a caravan insurance policy, sold to her by a broker and underwritten by UKI. In October 2020, Ms C delivered her caravan to an independent contractor, who I'll refer to as "X", to complete some remedial/cosmetic work.

But Ms C became unhappy with X and the length of time it was taking to complete the agreed work. And when she went to see her caravan in February 2021, she was unhappy with its condition and the damage it had sustained in X's care. So, she made a claim on her insurance policy, stating X had damaged her caravan maliciously.

UKI outsourced the handling of claims such as this to a third-party company, who I'll refer to as "L". But as L were acting on UKI's behalf when handling the claim, UKI remains responsible for the actions L took, and the service they provided. L arranged for Ms C's caravan to be inspected by an independent loss adjuster, who compiled a report stating their belief that there was no claim for malicious damage and instead, the damage was down to poor workmanship.

But despite this report, L continued to progress Ms C's claim. And they helped recover Ms C's caravan from X's care and relocate it to a repairer, who I'll refer to as "G". G inspected the caravan and deemed it Beyond Economical to Repair (BER), due to the cost of the repairs and the availability of replacement parts. So, L initially provided Ms C with a valuation for the caravan, at market value.

Mrs C was unhappy with this valuation, which she felt was too low. She didn't feel the policy made it clear what market value meant when she purchased it. L returned to UKI to discuss a valuation increase and at this point, UKI expressed their opinion that the claim should be declined, as they felt the damage was caused due to faulty workmanship rather than malicious damage. Ms C was unhappy about this, so she raised a complaint.

Ms C was unhappy with the decision to decline her claim, as she felt it was clear the caravan had been damaged maliciously. And she was unhappy that she was told the claim would be covered, only for this decision to be overturned some months later. Mrs C also raised concerns about the service L provided her during this time. So, she wanted the claim to be accepted, a fair valuation paid to her for the caravan, and to be compensated for the upset she'd been caused.

UKI responded to the complaint and upheld it. They recognised that L accepted the service Ms C received was unreasonable, but they thought the £200 L offered was a fair one for this aspect of the complaint. And they thought their decision to decline the claim was fair, and in line with the terms of the policy Ms C held. But despite this, they thought they had acted fairly by covering storage and recovery costs, despite there being no valid claim to pay. So, UKI didn't think they needed to do anything more. Ms C remained unhappy with this

response, so she referred her complaint to us.

Our investigator looked into the complaint and didn't uphold it. He thought UKI had acted fairly when deciding the damage was caused by faulty workmanship, rather than a malicious act. And so, he felt UKI acted fairly when applying the associated exclusion to decline the claim. And he thought the £200 L offered, on UKI's behalf, was a fair one to recognise the service Ms C received during the claim which L accepted could've been improved. So, he didn't think UKI needed to do anything more.

Ms C didn't agree. She maintained her belief X had damaged her caravan maliciously, and she referred to the video and photographic evidence she'd provided to support this, as well as reiterating her testimony regarding her dealings with X. As Ms C didn't agree, the complaint has been passed to me for a decision.

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.

Having done so, I think the £200 offer already put to Ms C is a fair one and that UKI don't need to do anything more than this to resolve the complaint.

First, I want to recognise the impact this complaint has had on Ms C. I don't dispute Ms C's testimony that she placed her caravan in X's care to complete some remedial work, which she expected would be done efficiently, and to the appropriate standard. And I think it's clear when Ms C visited her caravan again, her caravan was left in a significantly worse condition than she expected. So, I can understand why Ms C may feel as though the actions of X were taken maliciously and why Ms C feels as though UKI have acted unfairly when declining the claim she made on this basis.

But for me to say UKI should do something more than they have already, for example direct them to accept and pay the claim, I first need to be satisfied they've done something wrong when declining it. So, I'd need to be satisfied they failed to act in line with the terms of the policy Ms C held when declining the claim. Or, if I think they did act within these, that they acted unfairly when declining the claim in some other way. And in this situation, I don't think that's the case.

I think it's also important to explain that it isn't my role to re-underwrite Ms C's claim, as I don't have the expertise to do so. Instead, it is mine and our service's role to consider the actions UKI have taken and decide whether these actions were fair and reasonable.

I've seen the terms of the policy Ms C held. And it does explain under the heading "*What is insured*" that the policy covered "*Loss or damage as a result of Accidental Damage, fire, explosion, lightning and earthquake, theft, malicious acts or vandalism, storm or flood*". So, for a claim to be accepted, I think UKI needed to be satisfied the damage caused to the caravan fell under one of these insurable events.

In this situation, Ms C has claimed the damage was caused maliciously and so, should be accepted under this insurable event.

But I've seen the loss adjustor's report compiled following their inspection in March 2021. And this states that "*in our professional opinion the caravan has incurred unnecessary irreversible damage due to being left outside to the elements and poor workmanship*" before going onto recommend that "*we do not believe there is a claim for additional damage or malicious damage to the caravan*".

In this situation, the loss adjustor was the expert who had seen and inspected the caravan. And because of this, I think UKI are fair to rely on the opinion they provide, and I don't think I can say they've acted unfairly when doing so. And I think it's clear the loss adjustor's opinion is that the damage has been caused due to faulty workmanship, and X's failure to store the caravan correctly. I don't think either of these actions qualify as malicious, as the definition of malicious centres around an offending party intending to do harm. And I don't think I've seen anything that evidences for certain that it was X's intention to damage the caravan to an irreversible extent.

I think this is supported by the fact that, when X spoke to the loss adjustor, they stated their intention to continue with the repairs. And X themselves said the caravan was in that state as they had stripped it to complete the remedial work initially agreed with Ms C. While I'm unable to speculate on what Ms C and X did agree as the full extent of the work, and how this would be conducted, I have seen a message between Ms C and X in January 2021 where X tell Ms C the caravan had been stripped and Ms C didn't raise an objection to this in her reply. So, I don't think I, nor UKI, could say for certain that X was intending to cause damage, or harm, to the caravan when taking this action.

And so, as malicious damage can't be evidenced, I don't think there is an insurable event for UKI to cover on this occasion and so, I don't think I can say they were unfair to decline the claim.

Further to this, even if there was an insurable event for Ms X to claim under, I can see within the terms of the policy that, under the "*Exclusions*" heading it states UKI wouldn't cover claims that related to "*Faulty workmanship, design or using faulty materials*". The loss adjustor has given their professional opinion that the damage was caused due to poor workmanship. And it's not in dispute that the caravan was placed in X's care to complete remedial and cosmetic work, including the treatment of some damp. Because of this, I think this exclusion supports UKI's decision to decline the claim and again, I can't say they've acted unfairly when doing so.

I appreciate Ms C won't agree with this. And I want to reassure Ms C I've considered all of the photographic and video evidence she's provided. This decision isn't intended to disregard the damage caused to the caravan, which I agree is significant and I recognise it has led to the caravan being deemed BER. But this decision focuses solely on the actions UKI, and L acting on UKI's behalf, have taken when progressing the insurance claim. And UKI aren't responsible for the workmanship of X, and the clear and obvious dispute Ms C and X have.

I recognise Ms C also raised concerns about the initial valuation placed on the caravan. But as the claim has since been declined, and I can't say this decline is unfair, I don't think Ms C was ever entitled to a payment for the valuation of her caravan and so, I don't think Ms C has been negatively impacted by any valuation she was offered. Because of this, I haven't considered this aspect of the complaint further, nor do I think UKI need to do anything more regarding this.

But I do recognise that Ms C was led to believe for a period of time between March and September 2021 that her claim would be accepted and paid. And it's not disputed by UKI or L that this was both incorrect and unfair. I also recognise that L have accepted their service provided to Ms C during the claim could've been improved. So, as these points aren't in dispute, I don't intend to discuss the merits of them further. Instead, I've thought about what I think UKI should do to put things right, considering the actions they've taken already.

Putting things right

When deciding what I think UKI should do to put things right, any award or direction I make is intended to place Ms C back in the position she would've been, had UKI acted fairly in the first instance.

In this situation, had UKI acted fairly, I think both themselves and L would've communicated in a way that prevented the confusion surrounding the claim and whether it would be accepted. And had they done so, I think Ms C would've been made aware of their decision much sooner and she wouldn't have had the shock of the claim reversal.

I recognise this has been accepted by UKI. And to recognise this, they agreed to cover the storage costs Ms C's caravan incurred between March to September 2021, when they made her aware the claim would be declined. As there was no valid claim, I don't think UKI were obliged to cover these costs and so, I think this shows UKI taking steps to recognise the impact the delay in declining the claim had on Ms C. I can also see UKI agreed to cover G's own inspection costs, which again they weren't obliged to do.

And I can see L offered to pay Ms C £200, which UKI commented on in their own response to Ms C's complaint stating their belief this was a fair offer for the level of service Ms C received. And having considered this offer on top of UKI's actions I've listed above, I think it is a fair one that falls in line with our service's approach, and what I would've directed had it not already been made.

I think it fairly recognises the delays in relocating Ms C's caravan from X to G that L were responsible for, and the distress Ms C would've felt during this period. I think it also fairly recognises the upset Ms C would've felt when she was made aware the claim was being declined, after being led to believe it would be accepted.

But I think it also takes into account the steps UKI have taken to minimise the financial impact to Ms C, by ensuring she wasn't responsible for the storage and inspection costs G incurred as UKI accepted G wouldn't have needed to be involved had they communicated the claim declination at the correct time.

From my understanding, the £200 offered to Ms C hasn't yet been paid and so, if this remains the case, I think this £200 should be paid to Ms C.

My final decision

For the reasons outlined above, I uphold Ms C's complaint about UK General Insurance Limited and I direct them to take the following action:

- Pay Ms C £200, if it has not already been paid previously.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms C to accept or reject my decision before 31 March 2023.

Josh Haskey
Ombudsman