

The complaint

Miss L complains about the way U K Insurance, trading as NIG, handled a claim she made under a buildings insurance policy for subsidence.

Reference to NIG includes its agents and representatives.

What happened

The circumstances aren't in dispute, so I'll summarise the background:

- Miss L made a claim for subsidence in 2017. NIG accepted it and appointed a loss adjuster to handle it. In summary, they thought the problem had been caused by leaking drains and these were repaired. After monitoring the property for movement, the loss adjuster said it was stable and building repairs could be carried out.
- Building repairs began but problems arose, and the work wasn't completed. Further drain repairs were carried out and discussions were had about how to settle the claim fairly. But the claim is yet to be fully settled.
- Miss L has made a number of complaints about the way the claim has been handled. She complained again in July 2022, which NIG responded to in November 2022, and referred that complaint to this Service for investigation.
- I'll set out the main complaint points and the position of both parties:
 - NIG has offered to settle the outstanding repairs by making a cash payment. Miss L doesn't think it's fair for NIG to settle the claim this way and has also disputed the amount offered. NIG said it would make the payment, as it thought the amount was reasonable. But it invited Miss L to let it know if she couldn't get the work done for that amount.
 - Miss L says water pours down the bathroom wall when it rains. NIG agreed to cover the cost of repairing the lead flashing to the roof, but not a roof inspection or any damp proofing at a lower level. Miss L said it had previously agreed to a roof inspection and that's needed to understand the damage.
 - Miss L says her boiler stopped working due to the actions of NIG's builder, so she bought a replacement. NIG didn't agree to pay. It said there was no evidence the builder had damaged the boiler, or that it needed replacing.
 - Miss L said her contents insurance premiums, with another insurer, had increased as a result of the ongoing claim. NIG said it wasn't responsible for the premium charged by other insurers.
 - NIG said it had stabilised the property. Miss L said cracks had reappeared and monitoring hadn't been carried out after the further drain repairs, so there was no evidence to show stability. Because NIG hadn't sent her a recent site

investigation report, and given her concerns about the drain repairs, she paid £800 for a structural survey. It confirmed the property was stable, but Miss L thought the cost should be reimbursed as NIG hadn't evidenced its opinion about stability.

- NIG accepted there had been further delays since its previous complaint response in April 2022. It paid £750 compensation for the emotional impact and £585 of interest for the financial impact. Miss L didn't think this went far enough to put things right.
- Our investigator thought the complaint should be partially upheld. He said it was reasonable for NIG to cash settle the claim, but it should include the hallway repairs. And it should pay a further £250 compensation for poor communication. Other than these points, he thought NIG had acted fairly.
- NIG didn't comment and Miss L disagreed, so the complaint was referred for an Ombudsman's decision.
- In the meantime, NIG provided another complaint response in May 2023. It commented on some of the complaint points above, giving more information about the actions it took, as well as paying a further £300 compensation. As a result, I'm going to extend the scope of this complaint to include the May 2023 response.

My provisional decision

I issued a provisional decision in which I said:

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

There are a number of issues to consider, so I'll set each one out separately.

Cash settlement

- The buildings section of the policy says NIG will "pay ... the amount of the damage ... or, at our own option, reinstate". So I think it's clear the choice of how to settle the claim is NIG's and that can include making a payment for the damage.
- I wouldn't usually expect an insurer to cash settle for structural work though, unless the policyholder wanted it to, given the significant consequences if that work went wrong. Here NIG says all of the structural work has already been completed. I haven't seen any evidence to the contrary, so I accept that.
- Whilst Miss L may prefer NIG to arrange for the outstanding work to be completed, its entitled under the policy to cash settle. The remaining work isn't structural. And given the significant delays and disputes that have arisen since work began, I don't think it's unreasonable for NIG to settle the outstanding work in this way.
- NIG set out its cash settlement offer for crazy paving, external decorating, lead flashing, and uplifts for the previously paid porch and bathroom repairs settlements.
- I understand Miss L agreed with the figure for external decorating. I haven't seen any evidence, such as quotes from Miss L, to suggest the other parts of the offer were unreasonable. Our investigator asked NIG to also pay for the hallway repair cost. It

didn't challenge that, so I assume it's prepared to do so.

- Overall, I'm satisfied it's fair for NIG to cash settle the outstanding work. The offer it made in the November 2022 complaint response was reasonable at that time for those outstanding works and the hallway repair should be added.

Bathroom

- Miss L says water pours down the bathroom wall when it rains, in part due to a crack in the wall. NIG said it thought there was a problem with the lead flashing on the roof and agreed to pay for its repair. Miss L questioned how it had assessed this as the cause of the water ingress. She also said it had previously agreed to pay for a roof inspection, so she thought that's what it should do in order to fully understand the cause of the problem.
- More recently, NIG has said a 'visual assessment' of the roof had been carried out, but no report was created. I understand this is what led NIG to offer to pay for the lead flashing repair. Miss L says the roof was viewed from ground level, so she doesn't consider this visual assessment amounted to a roof inspection.
- NIG said there was also an issue with the damp proofing of the bathroom. It said this was unrelated to the subsidence problem, so it wouldn't pay to put it right. I understand Miss L accepts this. But she said the damp proofing couldn't be the cause of the water problem because the crack is too far up the wall. And she says the repair of the crack should be covered because NIG had already part repaired it.
- The latest schedule of work includes an item to "inspect roof and report back". I'm not satisfied the visual assessment, which didn't include a report, fulfils this item. So, NIG should arrange for a roof inspection, with a report, to be carried out. That should include comment on any roof damage and its cause. Any damage that was likely caused by subsidence should be included in the cash settlement, if it's not already been taken into account. If the inspection finds damage not caused by subsidence – but caused in another way covered by the policy – Miss L will be entitled to make a new claim for that damage. Unless that's found, I don't see the need for a new claim.
- The schedule includes crack repair to the bathroom, which was cash settled prior to the current complaints, so I can't consider it. NIG said the cash settled repairs were sufficient to deal with the crack Miss L has mentioned. Whilst I can't look into it, I include it here to clarify that it's previously been considered and included.

Boiler

- Given work was carried out to services and pipework in the bathroom, it seems likely the builder would have switched off the boiler in order to carry out the work. However, it seems unlikely that switching off the boiler would damage it – and very unlikely that any such damage would necessitate its replacement.
- I haven't seen any evidence from Miss L, such as an engineer's report, to explain how the builder was responsible for any damage to the boiler – or why that necessitated its replacement. She's provided an invoice but that only sets out the work that was done without any further explanation.
- In these circumstances, I'm not satisfied it would be fair for me to require NIG to pay for the replacement boiler based on the available evidence.

- I understand Miss L first asked the loss adjuster about the boiler in September 2020 – but didn't receive a response. She's questioned why she wasn't told then what she needed to do in order to make her case about the boiler replacement. It's only more recently she was told she needed to get an engineer's report or similar. Naturally that will be more difficult to do with the passage of time. I'll bear this in mind when thinking about a fair level of compensation for distress and inconvenience.

Contents insurance

- As NIG explained, its not responsible for what information another insurer may take into account when setting a premium – or what premium it may charge.
- However, if NIG had made an error or acted unfairly and that had increased Miss L's contents premium over and above what she should have paid, I may find it fair for NIG to pay for that increase.
- Most insurers will take into account the claims history when setting a premium. And Miss L has made a claim. So any increase to her contents premium simply from having made a claim isn't something I can hold NIG responsible for.
- It's accepted the buildings claim has been subject to delays caused by NIG. So, if Miss L's contents premium has increased *more than it otherwise would have done* because the buildings claim has remained unsettled for longer than it ought to have been, I might expect NIG to pay for that increase. But Miss L would need to provide evidence that was the case – including how much that increase had cost her. She's entitled to explore that if she wishes. But as it stands, I won't be requiring NIG to pay anything towards her contents premiums.

Stability

- I understand drain repairs were carried out early in the claim. Miss L wasn't convinced the property had been stabilised and asked for further investigation to be carried out. NIG didn't agree but eventually, after building repairs began, it accepted there were further drain problems that needed to be repaired. It carried that work out.
- The loss adjuster had carried out monitoring and said the property was stable prior to starting building repairs. Monitoring ended and some time later the further drain repairs were carried out. No further monitoring was carried out after that.
- Miss L asked for a copy of the soil investigation report from October 2021. NIG said that wasn't something that was "generated / created, instead it is standard practice on subsidence claims to monitor the property for movement once the cause of subsidence has been resolved". NIG later said there was no report, the investigation was "primarily to confirm readings regarding the movement of the property". Miss L questioned this because monitoring hadn't taken place since the latest drainage repairs. And she said cracks had reappeared after the monitoring had ceased.
- NIG's position is confusing. In my experience, an investigation into the ground conditions will show things like foundation depth, soil type, and whether the soil has been impacted by tree roots or drain leaks. It's commonplace for a report to accompany this as an objective record of what was found. Or there's monitoring, which involves taking readings from points on the building. It's not clear why NIG seems to have conflated the two. And it spoke of monitoring to ensure stability,

despite ending the monitoring long before further drain repairs were carried out.

- So I can understand why Miss L found this unhelpful – and why she turned to a surveyor to understand whether her property had indeed stabilised. It's not always necessary to monitor to ensure stability in a subsidence claim. Particularly where the problem has been caused by a drain leak, in the majority of cases repairing the leak and giving the soil time to recover will provide for stability without needing to confirm that through monitoring. But here, where Miss L was concerned about ongoing damage and further drain repairs had to be carried out after building repair had begun, I can understand why she sought reassurance the property was stable before continuing with repairs. I don't think NIG's position provided such reassurance.
- In contrast, the surveyor's report thoroughly considered matters, including drain testing, and concluded the property was stable. On one hand, that agreed with NIG's position, so I think its position was right. But on the other hand, I don't think NIG gave Miss L any reason to be confident its position was right. Because of that, I'm satisfied it would be fair for NIG to reimburse Miss L the cost of the report, which is £800.
- I know Miss L has concerns about the accuracy of the Certificate of Structural Adequacy. I note it's made out to the policyholder, not Miss L, so it's not something I can consider. But, as a general point, I'd expect the Certificate to be an accurate reflection of what happened during the claim. And if it were to reference a schedule of work upon which the cash settlement was based, that schedule should show *all* work that was cash settled. This may be something for NIG to consider further.

Compensation

- The scope of this complaint runs from April 2022 to May 2023, including the complaint responses from November 2022 and May 2023. In total, NIG has offered £1,050 compensation and £585 interest for delays during this time.
- It's clear NIG accepts it's continued to handle the claim poorly. It's communication about a number of matters has been unclear and, at times, contradictory and/or not supported by the evidence. I've seen nothing to suggest this is a result of staff 'lying', as Miss L seems to strongly believe, but nonetheless it's caused avoidable distress and inconvenience to her – and it's delayed the settlement of some aspects of a claim that long ago became unnecessarily protracted.
- Taking into account what's happened during the scope of this complaint, I'm satisfied NIG's offer of compensation and interest reasonably reflects the impact on Miss L. So I won't be requiring NIG to increase it. If it's not done so already, it should pay these amounts to Miss L.

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.

NIG responded to say it would accept my provisional decision.

Miss L responded and made a number of comments. I'll take each in turn, summarising what Miss L said and setting out my opinion about it.

- Miss L questioned why I hadn't followed the recommendation of the investigator for NIG to pay an additional £250 compensation. I was satisfied that the total of £1,635 NIG had offered in compensation for April 2022 to May 2023 was reasonable. So I didn't think it needed to pay any further compensation or interest.
- In the May 2023 complaint response, NIG said it had contacted the other leaseholders about the settlement for the damage to the communal pathway. Miss L queried this as she thought the damage was related to her property only and it wasn't right for NIG to share information about it with any other parties. NIG agreed not to engage the other leaseholders and to include the cost of repair in the cash settlement. Miss L asked what the next steps were for this damage. As NIG has cash settled this aspect of the claim, it's for Miss L to take the next steps, including letting the other leaseholders know if appropriate. There's nothing further for NIG to do on this point now that it's been cash settled.
- Miss L queried whether all of the structural work had been carried out. She said the contractor who prepared the schedule of work indicated more work to the bathroom wall and ceiling may be needed – but didn't include all of it in the schedule. NIG said the schedule included crack repair and that was sufficient to put the damage right. As I said in my provisional decision, the cash settlement for the bathroom was made prior to the scope of this complaint, so I can't consider it. If Miss L doesn't think the schedule is sufficient to deal with the crack repair and/or structural work, she'll need to take that up with UKI. But, depending on the outcome of the roof inspection and report, the position with these crack repairs may change.
- Miss L said that even if the offer NIG made in the November 2022 complaint response was reasonable at that time, as a result of ongoing delays, it might not be reasonable now. She asked for all cash settlements to be increased to reflect current costs. This is effectively a new complaint point, so it's not something I can consider as part of this complaint.
- Miss L said NIG had arranged for a roof inspection and report in July 2023 – but it focused on the lead flashing, didn't find the cause of the water ingress, and suggested the lead flashing wasn't the cause anyway. She's concerned it doesn't fulfil what I set out in my provisional decision. She provided the report, and I can understand her concern. This might be because it was carried out before my provisional decision, so NIG didn't know my thoughts about it. But, in any case, as it doesn't fulfil what I've said it should do, NIG hasn't dealt with this point fully yet – and will still need to carry out the remedy in the way I've explained.
- Miss L said she couldn't get a boiler report so long after the work had taken place. I recognise it may be more difficult to do so with the passage of time, but I don't think it's impossible. I did factor the increased difficulty and frustration at finding out about this later in the process into my thinking about compensation.
- Miss L said she couldn't source cheaper insurance cover elsewhere due to NIG's delays. I haven't seen anything to suggest she's unable to move to another insurer as a result of the way NIG handled the claim. But generally once a policyholder has made a subsidence claim, they'll often find it more difficult to move insurers regardless of how the claim was handled. So I'm not persuaded that the way NIG has handled the claim has impacted Miss L's ability to move insurers.
- Miss L said NIG had lied as a soil inspection had taken place and shared an email from the loss adjuster which mentioned the findings of the inspection. Given that

email, I don't think NIG deliberately concealed anything about the inspection from Miss L. As I set out in my provisional decision, I think it conflated two different things and gave a confusing position. That was unhelpful but I don't think any malice was intended, it was merely a mistake or misunderstanding on NIG's part. In any case, it's agreed to refund the cost of her report into the matter, so I'm satisfied that provides a fair and reasonable outcome to this point.

- Miss L questioned whether she could complain about the way the claim has been handled since the May 2023 complaint response. In short, yes, she's entitled to complain about matters since then if she thinks she's not been treated fairly. But I would note that some matters may reasonably not have progressed if they were dependent on the outcome of this Service's investigation.
- Overall, having considered Miss L's response, I remain satisfied the remedy I set out in my provisional decision is fair and reasonable in the circumstances for the reasons given above.

My final decision

I uphold this complaint.

I require U K Insurance, trading as NIG, to:

- Pay for the hallway repairs.
- Carry out the roof inspection and report back.
- Pay £800 for the surveyor report.
- Pay £1,635 for compensation and interest.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss L to accept or reject my decision before 11 December 2023.

James Neville
Ombudsman