

## **The complaint**

Ms F has complained about how her property insurer U K Insurance Limited (UKI) has handled her water leak claim made in January 2022.

## **What happened**

Ms F's home suffered a water leak in January 2022. Over the following months Ms F wasn't happy about how the claim was progressing. She made a complaint to the Financial Ombudsman Service about this. My Ombudsman colleague issued a final decision dated 9 February 2023, considering what had happened up until 2 December 2022 and issuing some directions to UKI regarding the claim going forward. As Ms F remained unhappy in the period after that considered by my colleague, she made a further complaint – which is the complaint I'm currently considering.

In a final response letter of 19 April 2023 UKI accepted there had been some failings by it in the period after 2 December 2022. It paid £500 compensation to Ms F. Ms F told our Investigator that she was worried about a number of repair aspects. But also, about how UKI was handling her accommodation arrangements. Our Investigator felt Ms F's complaint should be upheld. But when Ms F wasn't happy regarding compensation and UKI didn't agree with the way forward suggested for the repairs, the complaint was referred for an Ombudsman's decision. On 21 May 2023, whilst the complaint was waiting for an Ombudsman's review, a further leak occurred.

The complaint was passed to me for consideration. I issued a provisional decision. I explained the limitations of my consideration. I felt UKI had failed Ms F in some key areas and that a total of £1,000 compensation was fairly and reasonably due. I felt UKI should pay some interest against delayed council tax payments. I said it should clean items and replace a vanity unit. UKI agreed with the compensation and interest awards. Ms F was unhappy with my findings.

## **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.

I said provisionally:

*"The parties will likely notice that my background above is brief. They can rest assured I'm aware of the history of this claim and complaint, I've noted the many issues of concern and my brief background is certainly not intended to overlook any of that. Rather, to avoid duplication, any key background information about the aspects at the heart of the complaint is contained with the relevant part of my provisional findings below."*

As this is now my final decision, "*my provisional findings*" will be quoted in italics. I'll set any comments from the parties against each relevant section, along with my replies.

## Scope of my decision regarding repairs

*"I know Ms F would like me to require UKI to appoint a different loss adjuster, and/or for it to use different reinstatement contractors going forwards. And I think it is fair to say, given the details I've set out below, that she has reasonably lost faith in the current loss adjuster. So, it may make sense to UKI, if it is taking a pragmatic view of things, to make a change to try and ensure the repairs can now move forward smoothly. But I can't make a direction in this respect – because our decision about how UKI should handle the claim moving forward has already been made by my colleague in the final decision dated 9 February 2023.*

*I've set out here the directions from the February 2023 decision by my Ombudsman colleague.*

- complete the agreed strip out works as soon as possible (if they aren't already complete);*
- get expert confirmation that the property is dry and/or, if it isn't, carry out drying as soon as practically possible;*
- provide an updated report (to be shared with Ms F) setting out the remaining work to be carried out – this should cover the issues with the underlay and the mould and should set out whether any additional damage reported by Ms F since she made the original claim is covered by the policy;*
- complete any remaining reinstatement works as soon as practically possible;*

*I can't alter these directions – and they speak to UKI's completion of all the insured works. So, what I can require UKI to do now will be limited by these previous directions.*

*Further, as mentioned, there's been another leak which is affecting some of the same areas. UKI has agreed to sweep that all into this claim, but it means that the repair programme has to be changed/adapted. I know UKI has appointed a different drying and restoration contractor to deal with repairs going forwards and I trust that will afford Ms F some peace of mind for the remaining reinstatement work.*

*The second leak occurred on 21 May 2023. At that point, work had been put on hold as an impasse had been reached between Ms F and UKI. Both parties have agreed for me to consider what happened until that point. I know Ms F would like me to consider things beyond then, perhaps to date – but I am not a claims handler. Her complaint was made in late 2022 and early 2023 about UKI's handling of the 2022 claim. But the new leak potentially changes what is required of UKI in respect of reinstating the property. Essentially what it must do regarding the first leak is naturally and materially affected by the further leak. So, 21 May 2023 provides a reasonable point for me to consider Ms F's complaint to."*

Ms F said she did not understand why I could not alter previous directions set out by my colleague in their final decision dated 9 February 2023, regarding either repairs or alternative accommodation. Especially, she said, when UKI had failed to follow those directions. She feels that as this is a new complaint – I should be able to make directions about what has occurred during its period. Ms F asked that I make a finding in-line with that suggested by our Investigator. Ms F said different drying contractors have not been appointed following the second leak. And besides the continued involvement of the original loss adjuster taints the whole claim. She said she didn't consent to me considering events up until 21 May 2023 as part of this complaint.

UKI said it wanted some comment from me about it not being able to access Ms F's home for repairs – it said this was important for the claim going forward.

I appreciate that the limitations of my findings are frustrating and upsetting for Ms F. I know Ms F feels UKI did not comply with the directions of my colleague in their 9 February 2023 decision. But that does not give me power to add to those directions to make UKI correct

things. That's because this service has no power to enforce the decisions we make. That is something only a court could do. I know Ms F prefers the outcome initially suggested by our Investigator and that her main goal is to get UKI to agree to an independent assessment of the works and outstanding necessary repairs at her home. But for the reasons explained, I can't fairly and reasonably make a decision along those lines, or to make UKI change its loss adjuster. I've reviewed Ms F's response to my suggestion, put to the parties in August 2023, that I consider, as part of this complaint, the claim activity occurring up until 21 May 2023 (after UKI's final response of 13 April 2023). She said she thought my consideration should go further than that – to take into account everything to that date (in August 2023). I'm satisfied that by asking me to take into account everything up to date, Ms F consented to me taking into account detail beyond the date of UKI's final response.

I appreciate UKI is concerned that Ms F hasn't been allowing it to carry out work. I think it's fair to say she's been frustrated and worried. Given some of my findings below I can understand her being concerned. I can also understand, within the period I am considering, which is up until 21 May 2023, that she wanted to wait for the outcome of my findings before going ahead with any works. I've not considered what has happened after 21 May 2023.

#### Repair issues

*"Ms F had many concerns as of 2 December 2022. I've considered and commented on UKI's respective actions below."*

#### *Front door –*

*"Ms F was concerned as this needed to be building regulation compliant. I know the loss adjuster was aware of this from before December 2022. Yet whilst the repair programme was progressing in February 2023, it was not until the end of March that the loss adjuster got confirmation from the contractors that they could not supply and fit a compliant door. The loss adjuster then organised this, although it wasn't fitted because work was stopped. That should have been organised in December 2022. That would have avoided Ms F worrying about it and having to complain about it. I'll take that into account when awarding compensation."*

Ms F said that there was incompetence, lack of care and professionalism from the loss adjuster regarding the door. She had to deal with researching and finding a compliant door – if she hadn't UKI would've fitted the wrong type of door. She said the property needed drying and restoration before a door could be fitted, which the loss adjuster had never addressed.

My view is that UKI handled the front door issue poorly. I accept that Ms F put in a lot of effort to get this resolved. At the point the work stopped the property was dry, and fitting the front door could have been completed as part of the overall reinstatement programme.

#### *Underlay –*

*"Ms F wanted the underlay taking up as it was wet. UKI did do this when it visited the property in January 2023. I'm not sure why it wasn't done before. Ms F was worried about this during December 2022 and until she received confirmation it had been removed in early February 2023. If UKI had removed the underlay when the property was stripped, this two months of worry could have been avoided for Ms F. I'll take it into account when awarding compensation."*

Ms F said it was common sense this was needed and should have been done in the first place. She shouldn't have had to chase for what should've been done as a matter of course.

I agree UKI failed Ms F regarding the underlay. As far as I can, given the period I am considering, I've taken that into account.

Mould –

*“There was mould in the property. Ms F argued it was because the property wasn’t dry. UKI checked if the property was dry following the February decision. It was entitled to rely on the findings of its expert in that respect – which said it was dry. In any event the mould was then dealt with in April 2023. I know Ms F thinks a mould specialist should have been used and a certificate produced. But the restoration company had recommended the mould could be rectified by sanitising it – which UKI’s contractors confirmed they did, before stain blocking the affected walls, and arranging to leave the heating on low. I think this was reasonably handled by UKI.”*

Ms F said UKI’s reliance wasn’t fair because the expert was not independent. She said she was disappointed as she felt I’d just taken UKI’s word that the mould had been sanitised – she’d provided photos showing this was not the case. She wants to see evidence this was treated. Ms F said its likely mould also formed behind the cupboards in the bedroom, which UKI has never considered. She said the contractors never went to her property to put the heating on. Ms F said she’d like a mould specialist appointed.

I understand Ms F’s concern that the expert wasn’t independent. But a lack of independence doesn’t mean it was unfair for UKI to rely on the findings. I appreciate that Ms F’s provided photos. I’ve considered them. I’ve seen that contractors attended the property and confirmed work was completed. I’m satisfied the mould was dealt with. I’ve seen that contractors were at the property in April and an agreement had been reached for the heating to be left on. I’ve seen nothing to make me think this wasn’t done. My colleague’s decision of 9 February 2023 included a direction regarding the mould. As I’ve explained I can’t change or add to that, so I won’t be making a direction which requires UKI to appoint a mould specialist.

Asbestos –

*“Ms F knew there was asbestos in a panel of the bathroom wall. As of December 2022, Ms F was trying to get clarification that it had been removed and that the removal had been done in line with regulations. Detail from UKI about the panel has varied from it saying that it wasn’t removed, to it saying that there was no evidence it contained asbestos. Recently, UKI has confirmed it knew the panel contained asbestos and, when the property was initially stripped, the contractors were meant to have removed and disposed of this in line with regulations. However, an oversight meant it was removed without regulations being applied. I know UKI has since tested the house to make sure there is no asbestos present. Which should reassure Ms F going forwards. But I accept she will be worried and angry about the lack of care which resulted in her home (and her, to a limited extent, because she was not living there) having been potentially exposed to harmful contaminants. I understand that the risks from the type of asbestos used in the home are relatively low. But I say this to offer Ms F some reassurance, not to justify UKI’s poor actions in respect of this serious matter. I accept the asbestos issue has caused Ms F significant worry and concern during the period I am considering and I’ll take that into account when awarding compensation.”*

Ms F pointed out that UKI had also, in April 2023 said it had removed the asbestos safely. She said this was further evidence of it lying. She feels I’ve minimised this issue which she sees as clear evidence of malpractice by UKI. She’s spoken to her doctor and he is going to refer her for tests.

I think UKI never got to grips with the complaint regarding asbestos. As a result the answers it gave to Ms F and this service were flawed. And UKI has now admitted to carrying out work not in line with industry regulations. It’s not for me to say though if this equates to malpractice on its part. And nor is it for me to punish it because of the breach. I can assure Ms F that whilst my detail about the asbestos issue is relatively short, I was in no way seeking to minimise this very concerning repair issue.

Dirty sanitary ware and appliances –

*“Seemingly the contractors were using the bathroom, including storing items in the bath, without caring for it. Nothing, including appliances in the kitchen, was protected. UKI PAT tested the appliances and it’s assured Ms F that items will be cleaned during restoration. I think that’s reasonable – for completeness, I’ll include a direction in this respect in my award below. But I can understand that Ms F saw all of this as further evidence of a lack of care being taken for her home. Which, equally reasonably, she found upsetting. I’ll take that into account when awarding compensation.”*

Vanity unit –

*“Ms F said this needed replacing. The loss adjuster, in January 2023, said its scope confirmed it would be removed and refitted (so not replaced). I think that, in this respect, the loss adjuster has overlooked an earlier agreement from its office which acknowledged that the unit was damaged and needed replacing. At that time the contractor was asked to amend the scope. I can only surmise that the amendment did not occur. I will require UKI to replace the vanity unit. I think the answer in January 2023 – that the unit would now be refitted – has likely been another cause of frustration for Ms F. I’ll take that into account when awarding compensation.”*

Regarding the dirty items and the vanity unit, UKI said they weren’t part of this complaint. It said, in any event, both would’ve been dealt with during the works. Ms F said the toilet would have to be replaced. She said she’d said several times that the unit needed replacing.

I’m satisfied that both these issues were part of Ms F’s complaint made following UKI’s previous final response of 2 December 2022, that date being when the final decision of 9 February 2023 considered matters until. I would hope that the cleaning, certainly, would be dealt with as part of the reinstatement programme. But as this specific need for cleaning has arisen due to UKI’s poor work, rather than the claim, it was appropriate for me to include a direction regarding it here. I’ve not seen evidence that the dirty items are damaged beyond repair. The vanity unit was only down in the schedule for re-fitting, not replacement (despite, as I said, UKI’s previous agreement it would be replaced). So there was no reason for me to think replacing the unit was something which would be done during the normal course of the remaining works. It was, therefore, appropriate for me to issue a direction in this respect.

Living room ceiling –

*“Ms F felt this had been affected by the leak. UKI arranged for the restoration company to check the ceiling in February 2023. No damage was found. Whilst I note some disparity – the restoration company referenced cracking when that wasn’t the description Ms F had given, I think if any water-related issues had been evident, they’d have been identified.”*

Ms F said UKI had said it would deal with the ceiling as a separate claim – but it had never followed through on this.

If Ms F has raised a new claim and doesn’t feel UKI is responding to it, that is unfortunate. But the complaint that came to me for consideration was that Ms F felt the ceiling had been damaged by the original leak, which UKI had not accepted, which is what my provisional findings focussed on.

Material choices and betterment –

*“In December 2022 the loss adjuster was asking Ms F for material choices. She provided these in January 2023. In late February 2023, with work about to start, the contractor told Ms F that items were missing and she’d picked items that exceeded the budget. The contractor told the loss adjuster that Ms F was looking for betterment (items better than those she’d had before). The loss adjuster accepted the contractor’s word. Later, UKI accepted that there wasn’t really any betterment – that costs may have just increased over time and that an error*

*had been made in recording the floor tiles as vinyl when they'd always been ceramic (and which Ms F had chosen). In my view, the loss adjuster did not manage this situation properly – it was never the contractor's role to determine betterment. And if there had been any issues to discuss about material choices – these conversations should have begun in January 2023. It was the end of March 2023 when this issue was resolved. I'm satisfied this situation added to Ms F's general worry and frustration in that period. I'll take that into account when awarding compensation."*

Ms F said this has been particularly difficult, she'd had to go to great lengths to convince UKI that she wasn't lying or trying to get betterment. She said that there was no betterment at all.

I said provisionally that UKI failed Ms F in this respect. I accept she was put to a lot of trouble and upset as a result.

#### Alternative Accommodation (AA)

*"The final decision dated 9 February 2023 said UKI must pay for AA until the claim is resolved: "pay for Ms F's alternative accommodation until the works are completed (assuming Ms F cooperates reasonably with the process)". I can't change or add to that final decision. But I can look at how UKI has handled the arrangements for AA and any related payments during the period that I'm considering, which is 2 December 2022 to 21 May 2023.*

*There's been an ongoing issue with AA payments – whilst UKI paid the rent each month, the payment wasn't getting allocated properly and the letting agent was chasing Ms F for what it saw as outstanding rent. UKI's agent has blamed the letting agent for not advising that a certain reference number was required to allow proper assignment of the funds. But I can see that as early as November 2022, and even as of 7 December 2022, UKI was aware that payments were going astray due to a missing reference number. Yet through to May 2023 this wasn't resolved and each month Ms F received contact from the letting agent threatening action for non-payment of rent. Ms F said to UKI at one point that she should not be having to resolve things each month. And she is completely right. I'll take the significant distress and inconvenience, which I accept she was caused by this issue, into account when awarding compensation.*

*I know Ms F has found it frustrating that UKI has only renewed the accommodation on a monthly basis. But I can understand why it has done this. I say this because I do think UKI has been trying to move the claim and repairs on, and it wasn't unreasonable for it to think that each month the accommodation was extended would be sufficient to allow completion of work and for Ms F to return home.*

*An issue arose with council tax. UKI had paid for some of the 2022 charges in 2022. But by 2023 payments to Ms F were outstanding. The loss adjuster told Ms F in April 2023 that he'd pay her the remainder for that year's charges, which was £864.06 – but when payment was raised the £250 policy excess was deducted. So only £614.06 was paid to Ms F.*

*I think it was reasonable for UKI to deduct the excess from that reimbursement payment – but it should have been clearer with Ms F. It should have told her it was doing that. Because it wasn't, she thought the council tax payment (of £864.06) hadn't been made and she had to make further enquiries.*

*The payments should not have been delayed either. UKI knew Ms F was still living elsewhere. And that she was making monthly payments to the local authority for both properties. So it should have been reimbursing her in a timely fashion in line with the payments she was making. I'm going to require UKI to pay an amount equivalent to interest to Ms F. The payment UKI paid in April 2023 covered monthly payments for a set period. It will have to apply interest to each monthly payment amount Ms F paid to the council, which*

*made up the total UKI refunded in April 2023, from the date she paid each amount until 9 April 2023 when the bulk payment was made."*

Ms F said extending AA for one month at a time was not fair. Not given the notice period for the property she was living in and the necessary repairs, including further drying since the leak in May 2023, but also to allow the mould and asbestos issues to be dealt with properly. Ms F said I was wrong about the council tax payments. She said she should not have to pay for both properties and fight for reimbursement.

In reaching my provisional decision I reviewed the AA arrangements up until 21 May 2023. I remain of the view that UKI, extending the stay on a short-term basis as it did, was fair and reasonable. I also remain of the view though that UKI acted unfairly and unreasonably regarding paying for the AA and reimbursing Ms F's council tax payments.

In her response to my provisional decision, Ms F referred me to an email she sent to our Investigator on 9 June 2023, explaining what council tax she felt was outstanding. I did consider that email when making my provisional decision. It referred to Ms F never having received the sum of £864.96 – and I explained provisionally why that was, that that sum less the policy excess had been paid to her. That was for costs from September 2022 through to the end of March 2023, with Ms F having previously confirmed and/or acknowledged that payments for June, July and August 2022 had been made by UKI. The payment of £864.96 less the policy excess, was made in April 2023. At that time the new tax year had started. UKI reimbursed Ms F's April and May 2023 payments in July 2023. A further delay, but relatively limited. It's not one where I feel payment of additional interest is warranted, some delay at the start of a new year isn't unreasonable.

#### Compensation

*"I bear in mind, as explained above, that there has been a lot of worry and upset during the roughly six-month period I am considering here (2 December 2022 to 21 May 2023). I also bear in mind that Ms F expected the repairs to progress with a certain degree of clarity after my colleague's February final decision. So, I can understand that the upset she felt when this did not happen was heightened.*

*I also think that Ms F was caused substantial and significant worry about the rent payments. I can see that she put in a lot of effort each month to get payments resolved and to ultimately identify why the payments were going astray. Ms F was caused more upset and worry by being left out of pocket for council tax payments between December 2022 and April 2023.*

*I know that UKI, as explained in its 13 April 2023 final response letter, has paid £500 compensation already for upset caused after 2 December 2022. I think £1,000 in total is due. UKI may think that is quite a high award for the period I am considering. But I think it fairly reflects that Ms F has been caused substantial worry throughout this sustained period. And that she has also had to put in a lot of effort throughout those six months to try and resolve issues of concern."*

Ms F said she'd had to live in her mouldy home for three months before UKI moved her into AA – this was during the period considered in the 9 February 2023 decision but had never been addressed. After that decision she'd expected repairs to progress not just with clarity, but safely. She feels my award does not adequately take into account the very serious issue of asbestos. Ms F feels that a harsh reprimand should be given to UKI. She said there's overall poor treatment from UKI to consider too, from it disregarding her questions to it bullying her. She said she'd like a breakdown of my award. Ms F said she'd like an award that recognises her suffering and UKI's wrongdoing, as well as that, overall, she's suffered indescribably over a two-year period.

I'm sorry Ms F feels that what she went through at the start of the claim, regarding living in a mouldy property hasn't been considered. But my colleague's decision of 9 February 2023 did take into account UKI's 2022 decision to leave Ms F living in the water damaged property.

I've explained that I accept that the position Ms F was in as of 2 December 2022, with the history of the claim behind her, impacted the way she felt and how much UKI's failures, after 2 December 2022, affected her. I've seen UKI trying to move the claim on at times, and I think some of its communications lacked some sensitivity. But nothing I've seen amounts to bullying or similarly negative behaviours. I've taken account of the serious nature of UKI's failures and how, given that nature, Ms F's been affected. But I've also explained that it is not for me to punish UKI. Nor is it part of my role to award compensation against each element of upset caused by failure, and therefore, be able to breakdown my compensation award. Having reviewed matters, I remain of the view that total compensation of £1,000 is fair and reasonable in the circumstances.

### **Putting things right**

I require UKI to:

- Clean all appliances and items of sanitary ware.
- Replace the vanity unit.
- Pay an amount equivalent to interest\* applied against each sum Ms F paid to the local authority, which makes up the total refund sum of £864.06, from the date Ms F paid each sum until the sum of £614.06 was paid on 9 April 2023.
- Pay Ms F a further £500 compensation for distress and inconvenience, where my award is £1,000 but £500 has already been paid.

\*Interest is at a rate of 8% simple per year and paid on the amounts specified and from/to the dates stated. HM Revenue & Customs may require UKI to take off tax from this interest. If asked, it must give Ms F a certificate showing how much tax it's taken off.

### **My final decision**

I uphold this complaint. I require U K Insurance Limited to provide the redress set out above at "Putting things right".

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms F to accept or reject my decision before 12 December 2023.

Fiona Robinson  
**Ombudsman**