

The complaint

Mr H complains U K Insurance Limited ["UKI"] has unfairly settled a claim he's made on his buildings insurance policy following subsidence at his property. He's also unhappy with some of the remedial work UKI has undertaken following the damage.

What happened

UKI is the underwriter of the policy, i.e. it's the insurer. Part of this complaint concerns the actions of its agents for which UKI has accepted responsibility. Any reference to UKI includes the actions of its agents.

The background to this complaint is well known to the parties so I've provided a summary here.

- Mr H's property experienced subsidence damage. UKI accepted the claim and undertook some remedial work to deal with the damage. Mr H made several complaints about UKI's claims handling and this Service has already considered these.
- Disputes about the work continued and Mr H commissioned a report from a surveyor that he said detailed all the work required to address the subsidence damage. UKI accepted much of this report but disagreed everything was subsidence related.
- Mr H raised a further complaint with this Service and one of our Ombudsmen issued a final decision in June 2023, which Mr H accepted, directing UKI to provide a cash settlement, at market rates, to complete certain works. These were:
 - to demolish and rebuild the rear wall;
 - reset the rear gatepost and adjust the locks;
 - to form lap joints and ensure rainwater captured in the rear porch roof;
 - undertake work to the half landing between the first and second floors;
 - to remove and make good the de-bonded plaster in the conservatory and rake out and fill in cracks and redecorate and
 - purchase a replacement kitchen plinth in natural wood and arrange for these to be painted and fitted.
- In the decision, the Ombudsman highlighted it wouldn't be fair to base the settlement on the quotes provided by Mr H as they appeared to include items that didn't form part of the outstanding works required under the claim or items which UKI had already provided settlement for. When Mr H accepted the decision, he agreed to get another quote.
- Mr H remained unhappy with the way UKI was handling the claim and made a further complaint. UKI issued a final response in August 2023. It didn't comment on the cash settlement as it said this had already been addressed by this Service. It didn't agree it was responsible for the installation of a soakaway or for the provision of new wall lights in the garden.

- Mr H got back in contact with this Service to make a further complaint. He was unhappy with a number of issues including, but not limited to, UKI's proposed settlement wasn't based on commercial rates and Mr H says he couldn't get the work done for what UKI was offering; UKI had broken wall lights; the retaining wall UKI rebuilt wasn't to the same standard as the previous one; UKI had agreed to install a soakaway in front of the garage but hadn't done so.
- Our Investigator considered the evidence and recommended within UKI's cash settlement it should include new wall lights, rewiring for the wall lights, a new wall built to the specification of the previous wall and the installation of a soakaway or suitable drainage if it couldn't be shown this wasn't required. UKI would need to show how it calculated the cash settlement and on which contractor the costs were based and the costs should be at the rate Mr H would be expected to pay if he went direct to the builder.
- After some further back and forth, our Investigator said the pragmatic way for the complaint to be resolved was for UKI to cover Mr H's builder's costs for the works the Ombudsman said are covered under the claim.
- UKI disagreed with the Investigator's recommendations. It said it had provided a cash settlement for the works detailed in the previous final decision and added 15% to reflect that Mr H would have to pay private rates for the work. It said the builder's quote provided by Mr H wasn't detailed enough and there was no justification of the overall figure and despite asking Mr H and his contractor for further information, this hadn't been forthcoming.
- It accepted the new wall wasn't an exact replacement but pointed out it had already provided a cash settlement in June 2022 for this to be rebuilt. It also said it had provided a cash settlement for the replacement wiring in the wall but didn't agree the wall lights had been damaged by its contractor.

The Investigator stood by her position and UKI's comments didn't change her mind. So, the complaint has come to me for an Ombudsman's 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.

As I've explained above, there have been a number of complaints prior to this one and the claim has continued to progress since the final response in August 2023, with Mr H being unhappy with other aspects of UKI's claims handling and remedial work. My decision here will focus on UKI's actions from the last complaint up to the point it issued its final response in August 2023. Mr H's dissatisfaction with what's happened after this will be dealt with under another complaint with this Service.

UKI has questioned why our Investigator commented on the cash settlement under the direction in the previous final decision. She has explained that that final decision directed UKI to settle the claim by making a cash settlement. But it didn't comment on the *amount* of the settlement and whether it was enough to get the work done, which is what Mr H's is complaining about here.

UKI has also commented on another case – unrelated to Mr H - considered by this Service where it says a different approach was agreed for reimbursement of a cash settlement at the

businesses' rates rather than commercial rates. But as the direction to pay Mr H at market rates was contained within a final decision, there's no further opportunity for UKI to challenge this direction as part of this new complaint. So, I won't be revisiting this or commenting further on it.

The relevant industry rules and guidance say insurers must deal with claims promptly and fairly; provide reasonable guidance to help a policyholder make a claim and appropriate information on its progress; and not unreasonably reject a claim. They should also settle claims promptly once settlement terms are agreed. I'll be keeping this in mind while considering this complaint together with what I consider to be fair and reasonable.

The amount of the cash settlement

UKI paid Mr H £7,572 including VAT in settlement of the claim and paid an additional 15% on top bringing it to a total of £8,708 including VAT which it said reflected the higher rate Mr H was likely to have to pay private contractors. But Mr H says this wasn't enough to allow him to get the work done, so UKI asked for evidence of what the work would cost Mr H.

Under the previous complaint, Mr H provided quotes from two contractors for around £32,000 and £37,000 but the Ombudsman said these weren't reliable as they contained work not required under the claim.

Mr H provided another quote from the contractor – which I'll refer to as "B" - which provided the lower of the two previous quotes. He said this excluded the work contested by UKI. This quote provided details of the work to be undertaken and was for £29,400 plus VAT. UKI said this quote wasn't detailed enough and didn't break down the cost of the specific aspects of work to be undertaken. The contractor wasn't willing to break this down further as this wasn't information it said it provided when producing quotes.

In light of the quote Mr H provided, our investigator asked UKI to provide further information about the quote it based its settlement figure on to evidence this was sufficient for Mr H to be indemnified under the policy and to allow him to get the work done. But I've not seen that UKI has provided this information.

Eventually, our Investigator said Mr H had complied with UKI's request for quotes and UKI had seemingly accepted B as a contractor as it said to Mr H "*...as you have yourself sourced and vetted [B] we see no reason not to allow them to do the work*". So, in the absence of the evidence from UKI she'd asked for, she concluded the pragmatic way for the complaint to be settled was for UKI to cover the costs quoted by B that the previous Ombudsman had said were covered under the claim.

Sometime later, Mr H provided a further quote from a different contractor, this time for £53,400 plus VAT which did provide some further detail on the work but still didn't provide line by line costings.

From this, it's clear there's a significant difference between the amounts of the quotes provided by Mr H, with this most recent quote being significantly higher than all the others, even those which included extra works. Even allowing for the eleven months between the quotes, this difference strikes me as unlikely to be simply representative of increased costs across that period. While I would expect UKI to cover the actual cost of works it will cost Mr H, this would typically be the lowest of quotes obtained providing the necessary works are included. So while I recognise this particular firm may have quoted this sum, as it's significantly out of line with the others, I'm not persuaded this is representative of the *only* cost Mr H could have the necessary works completed for.

I've thought about this very carefully. It's clear all the quotes are significantly higher than the settlement figure paid by UK and I'm not satisfied UKI has done enough to show this figure is sufficient to indemnify Mr H under the policy or for him to get the work done. I think the quote provided by Mr H's contractor B, which was seemingly approved by UKI to get the work done, represents the best and most pragmatic way for this complaint to be settled. While I appreciate UKI would've liked to have seen a clearer breakdown of the quote, I understand that B isn't willing to provide this, so I have to balance that against the evidence UKI has provided. And in light of UKI's refusal to provide further evidence itself, I've had to make a decision on the available evidence and for the above reasons I consider this direction to be fair and reasonable in bringing the matter to a close.

I will be directing UKI to cover the cost of the work directed by the Ombudsman, detailed above, in the quote from Mr H's contractor B less what UKI has already paid in settlement following the final decision in June 2023.

The soakaway

Mr H says his garage has not been rebuilt in exactly the same position and, as a consequence, the flower beds which previously provided drainage are no longer there. From the photographic evidence I've seen, this is seemingly correct. Mr H said UKI should install a soakaway/drainage or demolish the garage and rebuild it in its original location.

There's a disagreement about what was said between parties regarding the installation of the soakaway/drainage. Mr H says UKI's agents verbally agreed to this and he says he was told it was a building regulations requirement. He has provided testament from one of his contractors who Mr H says was present at a meeting with UKI's agents. He said:

"I carried out works for Mr H as site supervisor... It was agreed at a site meeting that drainage was to be put in place..."

UKI points out that installation of a soakaway/drainage was never included on the schedule of works and Mr H accepted this at the time.

Our Investigator said UKI should provide evidence to support its view that a soakaway/drainage wasn't required and the garage met any legal requirements without it. I'm satisfied UKI has ample time to provide this evidence, but I can't see that it has. We're not experts in this area and I would think this would be a simple matter for UKI to arrange one of its experts to comment on this to say it's not a legal requirement or required under relevant regulations.

Given its lack of engagement on the matter and its seemingly conflicted position (based on earlier comments to Mr H's agent) I'm satisfied UKI should include the installation of a soakaway/drainage – which is already included in B's quote - in its cash settlement. Given the relationship has broken down this should be at the market rates available to Mr H in employing his own contractor in line with B's quote.

The wall and wall lights

As part of the remedial works directed in the final response, UKI's contractors demolished and rebuilt a garden wall. Mr H says this wasn't rebuilt to the appropriate standard.

I've carefully considered Mr H's surveyor's report. The report identifies an incorrectly constructed wall with no foundation and soft and cracked mortar, with a mortar mix not to standard building construction for the type of wall. It's apparent from this report and the

photographic evidence, this wall wasn't rebuilt to the same standards or specifications of the wall that was there previously.

UKI says it's previously made a settlement for this wall in June 2022. But as the reconstruction of the wall was a requirement detailed in the June 2023 final decision, it seems to me this was still a current issue at that time even allowing for what may have happened previously.

Because of this, I think UKI should include within its settlement the cost of rebuilding the wall – included in B's quote - to the same specification and standard as the wall that was there previously. This should be at market rates.

Mr H says UKI's contractors damaged the wall lights and wiring when undertaking the demolition and reconstruction of the wall and these were no longer usable. There's some disagreement about whether or not the lights were working at this time.

UKI says there was no evidence to show the lights were damaged by its contractors and says they were experiencing wear and tear and they weren't working at the time. Mr H says they were and he's provided testament from his site supervisor who said:

"I...can confirm that all lights to the garden area worked..."

So again, I'm left to make my decision on the balance of probability. I've thought very carefully about this and taken account of all the parties have said.

From the evidence I've seen, I'm satisfied there was strong evidence of poor workmanship in the work undertaken by UKI's agents. While I acknowledge this doesn't directly evidence the cause of the damage to the wall lights, it does indicate a lack of care and attention to detail on the part of UKI's contractors.

Given the apparent lack of care and poor-quality work identified in his surveyor's report and the photographic evidence I've seen, on balance I think it's more likely than not the lights were damaged by UKI's contractors during the course of the work it undertook. Because of this, I will be directing UKI to include replacement lights and wiring – included in B's quote - in its settlement to Mr H.

Other issues

During the course of this Investigation, Mr H has raised a number of issues which have arisen after the August 2023 final response including problems with the porch and the kitchen. These sit outside the remit of this complaint so I won't be commenting on these in this decision.

My final decision

My final decision is that I uphold this complaint and direct U K Insurance Limited to:

- Pay Mr H the amount of B's quote for the work previously identified by our Ombudsman, detailed above, less the amount it's already paid Mr H in settlement after the final decision in June 2023.
- UKI should include the cost of the installation of a soakaway/drainage at market rates in its cash settlement, which is already included in B's quote.
- Include in its cash settlement the cost of rebuilding the garden wall to the same

standard as that which was there previously, at market rates together with replacement wall lights and wall wiring, which is already included in B's quote.

- UKI should pay Mr H VAT on the works, on receipt of evidence from Mr H he has paid this.

U K Insurance Limited must pay the compensation within 28 days of the date on which we tell it Mr H accepts my final decision. If it pays later than this it must also pay interest on the compensation from the deadline date for settlement to the date of payment at 8% a year simple

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 18 October 2024.

Paul Phillips
Ombudsman