

## The complaint

Mr and Mrs L complained that their claim for damage to their garden and patio was unfairly declined by U K Insurance Limited ("UKI") under their home insurance policy.

## What happened

Mr and Mrs L reported to UKI their garden was becoming wet and the patio was showing change. Further up the road there was water damage problems, and these were coming down the road.

Mr and Mrs L said the consultant working on that issue said this might be causing the issue to their garden. UKI sent a surveyor to review the circumstances of the claim. Mr and Mrs L said the surveyor said he would be recommending the patio be changed but was not sure that the garden itself would be covered.

*UKI said "to cover [Mr and Mrs L's] claim, [it] must be satisfied the damage has occurred due to an insured peril, such as a one-off storm or escape of water. UKI said [its contractor] concluded that the damage is due to wear and tear which has been caused gradually over a period and therefore the claim is declined in full".*

Our investigator decided not to uphold the complaint. She thought UKI had reasonably concluded the damage wasn't caused by a one-off insured event. Mr and Mrs L disagreed, so the case has been referred to an ombudsman.

## 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've checked the policy and it does include an exclusion which states *"just like most insurers we don't cover:*

- *wear and tear*
- *maintenance and routine decoration*
- *loss or damage as a result of the lack of maintenance and/or routine decoration*
- *any damage caused gradually"*

*UKI said "the surveyor's responsibility is to document the claim and provide rationale for their findings and I am satisfied they have done this in a clear and concise manner. On this occasion, there is not any evidence to suggest an escape of water is the main cause which has damaged your property. The evidence we have gathered confirms the damage has not been due to a one-off escape of water. Therefore, no insured peril is in operation. From the photographs taken at the visit, using a high-powered camera. [Our contractor has] advised there's evidence of rainwater ingress over a period. [Our contractor has] advised the weather has merely highlighted a pre-existing problem".*

I've checked the surveyor's report and it supports what UKI said. I appreciate Mr and Mrs L said the surveyor told them something else. However, the only evidence that I have is the written report from the surveyor. In coming to my decision, I must rely on the expert reports provided on the claim. I think UKI have followed a reasonable process and have been fair in making its decision based upon this evidence.

Mr and Mrs L have provided their own written testimony which outlines what they've discovered from speaking to local experts and neighbours. I don't find this as persuasive as it's second hand. Mr and Mrs L haven't provided any expert reports that contradict UKI's conclusions. They've said it's too expensive to provide these and difficult to acquire.

I do understand this. But, if Mr and Mrs L provide further information to UKI, it would need to consider it. If new information supported Mr and Mrs L's argument then they'd be entitled to ask UKI to reimburse these costs.

However, as I can only base my decision on the evidence provided, I don't uphold this complaint. I'm mindful Mr and Mrs L have experienced similar problems for several years, which indicates to me this wasn't a one-off event. I think UKI has reasonably declined the claim based upon the investigations it has carried out. It has declined the claim in line with the terms and conditions, as the evidence suggests the damage has occurred gradually.

### **My final decision**

My final decision is that I don't uphold this complaint. I don't require U K Insurance Limited to do anything more.

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

Pete Averill  
**Ombudsman**