

The complaint

Mr S complained that U K Insurance Limited ("UKI") unfairly declined part of his claim under his home insurance policy.

What happened

Mr S appointed an expert to review damage that he'd noticed to his property. After an investigation the expert produced a report that concluded there was some damage to drains on the property which was caused by tree roots. The expert also explained the tree roots had caused the drive to lift and observed damage to boundary walls.

Mr S made a claim to UKI but based on the information provided by Mr S UKI decided to decline the claim for the damage to the walls and drive. It said it was likely the damage had been caused gradually. Therefore, it said the damage was excluded from the policy. UKI did say it would consider the damage to the drains under the accidental damage section of the policy.

Mr S thought this was unfair, and he wants UKI to cover the damage to both his walls and drive.

Our investigator decided not to uphold the complaint. She thought UKI had evidenced the damage to the walls and drive had been caused gradually, so she thought UKI had been fair to decline this part of the claim. Mr S 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'm going to disappoint Mr S, as I'm not going to be upholding his complaint. I'll explain why.

UKI said:

"your home insurance policy covers your building for damage caused by specific one-off events or perils which are listed in your policy booklet. There is no cover for damage which occurs gradually. This is detailed on page 5 of your policy booklet, where it states:

Policy conditions

Just like most insurers we don't cover:

** Any damage caused gradually*

As damage caused by tree roots would happen over time, our claims team were correct to turn down your claim for the wall and driveway.

The policy covers accidental damage to underground pipes and drains. So, while the tree roots would have damaged the drains overtime, as they're not visible to you, you wouldn't be aware this was happening until they stop functioning normally, therefore, we generally accept claims for this, subject to validation".

I think UKI has explained clearly why it has declined the claim. It has set out what part of the terms and conditions it has used in declining the claim. I've read the expert's report that Mr S provided, and it shows the damage was caused by root ingress. Clearly, this would occur over a long period of time. So, I think UKI has been reasonable in applying the policy term as it has.

It's normal for insurers to exclude damage of this nature as it's reasonably foreseeable. I can see Mr S' property has large trees in his front garden. I think it was likely the roots of these trees would at some point cause damage, so it would be Mr S's responsibility to maintain his property to mitigate likely damage occurring or conversely repair any damage caused.

I'm pleased UKI considered the claim in respect to the damaged drains as Mr S wouldn't have been aware of this as it was below ground. This would correctly be covered by the accidental part of the policy cover. As UKI has acted as I would expect, I don't uphold this complaint.

I appreciate Mr S has said the policy is contradictory. However, having read the points he's raised I think it's clear the policy excludes any damage that occurs gradually. However, there is a specific peril that is covered which is subsidence. It's up to insurers what risks they are willing to take in providing cover for consumers, and in return they received a commercial benefit in the form of a premium. Unfortunately, in Mr S' case, the circumstances of the damage he experienced wasn't covered by his policy.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 16 April 2024.

Pete Averill
Ombudsman