

The complaint

Mr and Mrs C complain about how U K Insurance Limited (UKI) proposed to settle a subsidence claim they made on their home insurance policy.

Reference to UKI includes its agents.

What happened

Mr and Mrs C hold a home insurance policy with UKI. In late 2018 they noticed damage to their property, in early 2019 they made a claim to UKI.

UKI accepted that subsidence was the cause of the damage and accepted the claim. It took steps to remove the cause of the subsidence – some nearby trees.

The claim then progressed slowly with a dispute around what work needed to be completed.

In early 2022, Mr and Mrs C raised concerns that the property was moving further, UKI arranged to monitor, and this was completed in October 2022.

In June 2023 UKI didn't agree to repair all of Mr and Mrs C's property. It said it was only responsible for damage caused by subsidence. And it said some of the damage was caused by the way the property was constructed. It offered to cash settle the claim because it said the work needed to repair the property, that was in its opinion, related to the subsidence couldn't be effectively completed without the work, which in its opinion was unrelated to the subsidence was carried out first.

Mr and Mrs C didn't think this was fair and complained to UKI. They weren't happy with the progress of the claim, or with UKI's decision to not pay for all the damage.

UKI didn't change its stance, so Mr and Mrs C brought their complaint to us.

One of our Investigators ultimately recommended the complaint be upheld. They said they weren't satisfied UKI had shown that the damage wasn't related to subsidence and was instead caused by the design and/or construction of the property. He also said the claim hadn't progressed as quickly as it should have done and recommended UKI pay £400 compensation.

Mr and Mrs C agreed but wanted clarification regarding the work that UKI needed to complete.

UKI didn't agree, it wanted to send three independent engineers to fully scope up the work and see which parts related to subsidence and which weren't.

Our Investigator didn't think this was fair at this stage of the claim and recommended UKI complete all the work required to make good the property.

UKI didn't agree and asked for an Ombudsman's decision.

I issued a provisional decision explaining I was thinking of upholding Mr and Mrs C's complaint. It said:

- *Mr and Mrs C's policy covers them for damage caused by subsidence. It's accepted there is subsidence, and that damage has been caused to the property.*
- *What's in dispute is whether all the damage claimed for is caused by subsidence, or whether it's caused by something else, either simply not covered by the policy, or something policy specifically excludes.*
- *The first burden of proof in a claim lies with the claimant. So, Mr and Mrs C need to show they've suffered a loss covered by the policy. As set out above, it's accepted there was subsidence and that that subsidence caused damage, so I'm satisfied Mr and Mrs C have passed their burden.*
- *The burden then passes to UKI. UKI needs to either pay the claim, or evidence why it needs not do so.*
- *I'm not satisfied UKI has done that here. It's said some of the damage is caused by poor workmanship, something the policy excludes. But it's not sufficiently evidenced this.*
- *Considering the amount of time this claim has been ongoing, the evidence provided to support UKI's position is thin. There's no detailed report outlining the poor workmanship and why that, not the subsidence is the cause of the damage it's excluded. I understand UKI has pointed to a lack of evidence from Mr and Mrs C supporting the damage is subsidence related. But their burden is much lower than UKI's. And as set out above, I'm satisfied it's a burden they passed.*
- *In addition, the affected part of the building has stood for over 15 years without issue and Mr and Mrs C have provided the relevant building certificate.*
- *I understand UKI says things are at an impasse and it wants to now move the claim forward and it's proposed it sends three independent engineers to assess the property and provide their opinion on the works needed and the cause of them.*
- *This would be an acceptable way forward, if it had been proposed much early in the claim. But at this stage it's not acceptable. The claim has in essence been ongoing since 2018. I'm aware this particular point of dispute hasn't been ongoing that long, but UKI has had ample opportunity to do what it's now proposing. ICOBS 8.1 requires insurers to handle claims promptly and fairly. It's not acceptable to only propose this way forward not only after Mr and Mrs C has complained to it, and to us, but after our Investigator has given their opinion.*
- *Allowing it to do so now would only cause further distress and inconvenience to Mr and Mrs C and further extend what's already been a long claim. I'm not satisfied that leads to a fair and reasonable outcome.*
- *So, UKI should deal with the claim and arrange for a new scope of works to be created on the basis all the damage is caused by subsidence. Works previously excluded because UKI it felt were as a result of faulty workmanship should not be excluded for this scope. I'm conscious of the length of time passed since the claim was made, so any further work needed, if attributable to the passing of time also need to be included in this scope.*

- *UKI should then arrange for that scope of work to be completed.*
- *Subsidence claims take time, but this claim has gone on for longer than it should have. Our Investigator thought an award of £400 was fair. I'm not persuaded it is. UKI simply hasn't adequately evidenced its position of not dealing with the damage. During that time, Mr and Mrs C's home remained unrepaired with visible gaps in the structure. That would be significantly distressing. As a result, I think compensation of £1,000 is more fitting.*

To put things right I recommended UKI:

- *Attend the property and create a new scope of work on the basis the damage has been caused by subsidence. It should not exclude works previously excluded due to faulty workmanship, or any further work associated with that.*
- *Arrange for a contractor to complete the scoped works.*
- *Pay Mr and Mrs C £1,000 compensation.*

UKI accepted this decision. Mr and Mrs C also accepted, but asked whether UKI would provide a certificate once works were completed to show the property was no longer suffering from subsidence.

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.

Because both parties accepted my provisional decision, I see no reason to depart from its findings or reasoning. So my final decision is the same as my provisional decision as set out above.

Turning to Mr and Mrs C's query relating a certificate following completion of works, I'd expect UKI to provide all the necessary documentation to them upon completion. If a dispute arises in relation to this, this would need to be treated as a new complaint.

My final decision

For the reasons set out above, I uphold this complaint. To put things right, U K Insurance Limited needs to:

- *Attend the property and create a new scope of work on the basis the damage has been caused by subsidence. It should not exclude works previously excluded due to faulty workmanship, or any further work associated with that.*
- *Arrange for a contractor to complete the scoped works.*
- *Pay Mr and Mrs C £1,000 compensation.*

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs C to accept or reject my decision before 6 March 2025.

Joe Thornley

Ombudsman