

## **The complaint**

Mr R complains about a claim being declined by UK Insurance Limited (UKI) on his buildings insurance policy.

Throughout the claim process, both Mr R and UKI have both hired third parties to deal with/comment on the claim on their behalf. In this decision, any reference to Mr R and UKI includes the actions of the appointed third parties.

## **What happened**

The details of the complaint are well known to both parties so I won't go into detail here. In summary, in February 2024 Mr R raised a claim with UKI following damage to a boundary wall and driveway on his property. UKI declined the claim. Mr R was unhappy and raised a complaint but this wasn't upheld by UKI. As Mr R was still unhappy, he brought the complaint to this service.

Our investigator didn't uphold Mr R's complaint. She didn't think based on the available evidence that UKI had acted unreasonably in declining the claim. Mr R appealed. As no agreement could be reached, the complaint has been passed to me to make a final 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.

When considering complaints such as this, I need to consider the relevant law, rules and industry guidelines. The relevant rules, set up by the Financial Conduct Authority, say that an insurer must deal with a claim promptly and fairly, and not unreasonably decline it. So, I've thought about whether UKI acted in line with these requirements when it declined to settle Mr R's claim.

At the outset I acknowledge that I've summarised his complaint in far less detail than Mr R has, and in my own words. I'm not going to respond to every single point made. No discourtesy is intended by this. Instead, I've focussed on what I think are the key issues here. The rules that govern the Financial Ombudsman Service allow me to do this as it's an informal dispute resolution service. If there's something I've not mentioned, it isn't because I've overlooked it. I'm satisfied I don't need to comment on every individual point to be able to reach an outcome in line with my statutory remit.

I'm sorry to hear about the damage caused to Mr R's property.

As a starting point, I think it's important to point out that I'm not a construction or river expert. My role in looking at this complaint, is to review the evidence provided by both parties to decide if UKI have acted fairly in declining the claim.

The peril in question here is flood. The policy terms and conditions doesn't have a specific definition for flood. UKI has said they don't think a flood occurred.

Flood is defined in the Flood and Water Management Act 2010 as anywhere land not normally covered by water becomes covered by water.

The damage to Mr R's property was caused by a retaining wall collapsing which has then caused loss of ground below Mr R's boundary wall and driveway. Mr R has argued that the water rose above the boundary wall which has caused it to collapse.

Having considered evidence provided by both parties, I'm in agreement with the investigator that the evidence supplied by UKI is more persuasive and a flood hasn't occurred. I've provided responses to comments made by Mr R in his most recent response to our investigator's outcome.

### **Definition of flood and if water going over the wall would qualify**

Mr R has argued that the retaining wall was built over 25 years ago. Because of global warming, he's argued that rainfall increasing by approximately 20% has meant the construction hadn't considered protection from this amount of rainfall. This has led to the retaining wall being breached. Based on what I've seen, I'm most persuaded that there wasn't enough water to breach the height of the wall. So, I don't think UKI has been unreasonable stating there isn't an insured peril.

### **The height of the wall**

Mr R doesn't believe that the height of the wall has correctly been considered. The retaining wall no longer exists. In all the photo's from before it collapsed, there is too much vegetation on and around the wall to work out exactly where the top of the wall was situated. So, I've considered the points made by both parties in coming to my outcome. Based on what I've seen, I'm most persuaded by the information supplied by UKI in regards to the height of the wall. As above, I don't think the water breached the top of the wall and so it wouldn't be classified as a flood.

### **His builder's email hasn't been considered**

The email provided by Mr R's builder has been considered in this complaint. I can confirm that I have considered the contents of Mr R's builder's email. As a service, we weigh up all the evidence to decide what we think is most persuasive. As I've already set out, based on all evidence provided, I think it's most likely the wall wasn't breached and so no flood has occurred. As an informal service, we wouldn't provide detailed commentary on every piece of evidence in coming to our outcome.

### **Water couldn't have got around the wall**

Mr R has provided an email which states that water couldn't have penetrated from the sides of the wall all the way across. From what I've seen, whilst UKI has set out that they think water could have got around the sides of the wall, I can't see that they've stated the water would have penetrated all the way across. However, as I don't think water rose above the retaining wall, I don't think this point needs to be commented on further.

### **Vegetation hasn't impacted the wall**

Mr R has argued that the vegetation on top of the wall hasn't impacted its integrity. I can't see that UKI has specified that the integrity of the wall has been impacted by vegetation. However, UKI has since pointed out that it wasn't just nettles growing on top of the wall. There is a mixture of different species. This includes ivy which can impact integrity of walls. Whilst the vegetation could have impacted the integrity of the wall, it isn't something I need

to consider as I don't think UKI has acted unfairly in stating that no flood has occurred.

I'm very sorry that my decision doesn't bring Mr R more welcome news. But in all the circumstances I don't find that UKI has treated Mr R unfairly, unreasonably, or contrary to the policy terms and conditions in declining the claim.

### **My final decision**

For the reasons I've given above, my final decision is that I don't uphold this complaint. I don't require UK Insurance Limited to do anything further.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 11 August 2025.

Anthony Mullins  
**Ombudsman**