

The complaint

Mr H and Mrs H are unhappy with the decision made by U K Insurance Limited trading as Direct Line (UKI) when dealing with a claim under their home insurance policy.

Mr H and Mrs H are both party to this complaint, and have appointed a representative to act on their behalf. For ease of reference, I have referred to Mr H throughout this decision.

UKI is the underwriter of this policy. Part of this complaint concerns the actions of third parties instructed on the claim. UKI has accepted it is accountable for the actions of third parties instructed by it. In my decision, any reference to UKI includes the actions of any third party instructed by UKI during Mr H's claim.

What happened

Mr H's policy terms and conditions included the following:

You're covered for

Service pipes and cables

We will pay for accidental damage to underground drains, pipes, cables and tanks which you are legally responsible for and which provide services to or from your home.

The policy defined accidental damage as '*Accidental Damage Accidental damage is sudden and unintentional physical damage that happens unexpectedly.*' The policy also said it doesn't cover '*Any damage caused gradually.*'

In March 2023 Mr H contacted a tank specialist (B) to inspect issues with the tank. It was reported that the septic tank was leaking sewage onto the lawn. B said '*We were unable to carry out an assessment of the drainage field as it is completely blocked... I am recommending that further investigations of the drainage field would need to be carried out to establish the cause of the blockage.*'

Mr H made a claim under his policy. UKI instructed its surveyor (A) to investigate the cause of the tank backing up and surcharging. A's findings included '*From the results of our investigations, we can confirm that there is no evidence of any accidental damage to the tank however we have been unable to survey the outlet arrangement at the property.*' It was further recommended '*that the outlet pipework leaving the septic tank is further investigated to confirm the cause of the blockage and if there is any damage to the pipework.*'

UKI agreed for Mr H's appointed expert B to carry excavation work on the outlet pipework. B's inspection found:

'The soakaway was become [sic] exhausted because of untreated effluent/ sludge clogging up the stone drain. As a result, the septic tank has started to back up

causing raw sewage to leak out at the man hole covers, toilets are surcharging and foul smells around the property.

In my opinion the soakaway system has become exhausted and is no longer fit for purpose therefore I would be recommending carrying out a percolation test in another area in the lawn to see if it is possible to install a new soakaway system.

If it turns out that percolation tests are a failure, I would then recommend installing a sewage treatment plant connecting the discharge to the adjacent storm drain that runs along side the drive way'

A reviewed B's comments for consideration of Mr H's claim. A's own findings recorded that:

'Due to no significant damage being present within the tank, as reported by [A and B], and the "obstruction" within the outlet pipework being confirmed as a single point soakaway we can confirm that there is no accidental damage present within the system and the serviceability issues has arose form [sic] a failed soakaway which has deteriorated over time.'

B was instructed to carry out a percolation test which resulted in a failure, so B advised *'the most cost effective and best long-term solution would be to install a new sewage treatment plant, connecting the discharge from the plant to the adjacent storm drain/ culvert that flows into the nearby water course.'*

UKI told Mr H that his claim wouldn't be covered because of the exclusion for *'Any damage caused gradually'*. Mr H didn't think UKI's decision was fair and complained about his claim not being covered. UKI's decision to decline the claim didn't change. UKI said it would cover the cost of the investigative work carried out. Mr H didn't accept these findings and referred his complaint to this Service.

The Investigator found that the decision to decline Mr H's claim was reasonable and in line with the policy terms. Mr H didn't agree. As the complaint couldn't be resolved, it has been passed to me for 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.

I thank Mr H for taking the time to explain everything that has happened since making a claim on his policy. I understand it has been a stressful time for Mr H. I'd like to reassure the parties that although I've only summarised the background to this complaint, so not everything that has happened or been argued is set out above, I've read and considered everything that has been provided.

When we investigate a complaint about an insurer's decision on a claim, our role is to consider whether the insurer handled the claim in a fair and reasonable manner. So, I've considered the evidence to determine whether UKI has acted fairly and reasonably in reaching its decision on Mr H's claim for damage to the tank. And having considered the evidence and UKI's decision on Mr H's claim, I'm persuaded it's decision is fair and in line with our approach. I'll explain why.

The policy covers accidental damage to the tank. But for there to be cover under the policy the damage must be 'accidental', which the policy defines as *'sudden and unintentional*

physical damage that happens unexpectedly. So, Mr H must show the tank has suffered damage which meets this definition for a claim to be accepted.

Turning to the definition of accidental damage - I think it's reasonable to say the damage was unexpected and wasn't caused on purpose. But I don't think Mr H has shown the damage was 'sudden'. Whilst it might have been brought to his attention suddenly - when it came to light because of the foul smell and leaking sewage- the damage itself needs to be sudden. From what I've seen, Mr H wasn't aware of a problem until the black sludge had reached a level where the drainage field had become completely blocked.

Mr H needs to be able to show that the damage was 'sudden'. And I'm not satisfied he has done this here. In contrast, UKI has relied on the expert opinions provided saying that the damage is gradual in nature and not indicative of a sudden event – and from what I've seen, I'm satisfied that's a reasonable conclusion.

I note Mr H's representative has commented that A's report said the claim should be covered and that UKI has failed to honour this. I've seen A's comments said *'Insurers should accept liability for the removal of the blockage under the terms of the customer's policy as this cannot be cleared via normal means and will continue to affect the function of the system.'* However, I also note that in the same report this was followed up with *'recommend that the outlet pipework leaving the septic tank is further investigated to confirm the cause of the blockage and if there is any damage to the pipework.'*

The result of the recommended excavation work found that *'The soakaway was become [sic] exhausted because of untreated effluent/ sludge clogging up the stone drain... As a result, the septic tank has started to back up causing raw sewage to leak out at the man hole covers, toilets are surcharging and foul smells around the property. In my opinion the soakaway system has become exhausted and is no longer fit for purpose.'*

I think these comments are more supportive of damage that has happened over time as opposed to a one off incident. I note A (UKI's appointed surveyor) agreed with these findings, referring to the likely cause of damage being *'a failed soakaway which has deteriorated over time.'* I haven't seen any compelling evidence to persuade me that the damage happened suddenly as required by the policy terms for accidental damage. Based on the findings of the experts who'd carried out the required investigative work, I'm satisfied UKI's decision to decline the claim is fair and in line with the policy terms.

Mr H's representative has referred to a finding in another case considered by this Service. We consider each case on its own circumstances and the facts in that case were different. In this case, I don't think Mr H has proved his loss so UKI's decision is fair. I haven't seen any evidence to persuade me that UKI's actions have been wrong, or outside of the policy terms. So, I won't be asking UKI to do anything in settlement of Mr H's complaint.

My final decision

For the reasons provided I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H and Mrs H to accept or reject my decision before 1 January 2026.

Neeta Karelia
Ombudsman