DRN-5735577

Financial Ombudsman Service

The complaint

Miss M has complained about the way her home insurer, U K Insurance Limited ('UKI'), settled a claim she made on her policy after part of her home was burgled.

Miss M's claim was brought to us by Mr M who is her husband and solicitor, but for ease I will refer to Mr M's comments as Miss M's.

What happened

I issued a provisional decision in March this year where I said I was not considering upholding this complaint. An extract from that decision follows:

"In January 2023 Miss M made a claim on her home insurance policy after several items were taken from a small building she has in her garden; separate to the main house. She said that electrical as well as expensive cycling equipment was taken which came to around £16,000 in value.

UKI settled the claim but classed the building as an "outbuilding" which meant that a limit of £2,500 was applied to the settlement.

Miss M wasn't happy about this and complained. She said she didn't consider the building to be an "outbuilding". She said that the word "outbuilding", which wasn't defined within the policy, has many definitions including that it is a separate structure used for a purpose incidental to the enjoyment of the dwelling house and that outbuildings may include sheds, greenhouses, garages etc. She said the purpose for which her and her family used the building was not incidental to the enjoyment of the main home but for domestic purposes, the same as the main home. She said the building in question was secured with double glazing, a locking mechanism and CCTV and was furnished, carpeted and had heating and Wi-Fi.

UKI said that as the building was separate from the main home but within the property boundary it was correctly classed as an "outbuilding". It said although there is no specific definition for this within the policy, it referred to the dictionary definition which states that an outbuilding is a building which is near to but separate from the main building.

Miss M didn't agree and brought her complaint to our organisation. She said the fact that the word "outbuilding" has different meanings means that there is ambiguity in the contract and so the contract should be interpreted in her favour (as the non-drafting party). She added that the dictionary definition UKI relied on, and which was retroactively applied to the agreement, was incorrect and that the definition she obtained using the same dictionary was: "An ancillary building near to or adjoining a main building, esp. a shed, stable etc., near to the main house on a farm; an outhouse." She said that the word "ancillary" is defined as

"subordinate, subsidiary… supplementary, additional; accompanying.." She stressed that the purpose for which she used the building was not "ancillary" and was effectively another room of the main building.

Miss M said she wanted UKI to pay the rest of her claim plus interest. She also asked for £5,000 for the distress and inconvenience she was caused by UKI failing to settle the matter in a timely manner. Miss M also said that due to the complexity of the complaint the matter was dealt with by Mr M as her solicitor in a professional capacity and was seeking to recover his fees which came to £3,600.

One of our investigators reviewed the complaint and initially thought it should be upheld. He said UKI should pay the claim up to the higher contents limit, less any payments made so far, plus interest and £200 compensation.

UKI disagreed with our investigator and said the common everyday understanding of an "outbuilding" is any permanent outside structure which is separate from the main building. It said from its perspective the main concern was the security of the building. It said the building in question was a converted shed made from wood and to suggest that it should be subject to the same policy limits as the main building would be unreasonable not least because it is more susceptible to the risk of theft. It said such buildings also often have glass doors which allow items inside to be left on view. And they can be broken into without the occupants in the main building being necessarily aware. UKI disagreed with Miss M's argument that it is the use of the building which determines whether its an outbuilding or not but said it's the location and the structure.

Based on the information provided by UKI our investigator felt that it had dealt with the matter fairly and reasonably and didn't think the complaint should be upheld. He agreed that in the normal everyday sense the building in question would be an outbuilding.

Miss M disagreed with UKI and our investigator for reasons she had already provided and asked for an ombudsman's decision. She added that the building was not a converted shed and cost £7,000, was professionally designed and built and reiterated that it would have been beneficial to all parties if the policy contained a definition for the word "outbuilding".

The matter was then passed to me to decide.

What I've provisionally 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.

<u>The policy</u>

Miss M has a buildings policy with UKI which includes cover for her home contents in the event of, among other things, theft. The policy also says that UKI will pay up to £2,500 for any contents claim following a theft from an outbuilding.

The policy defines "home" as "the main residence occupied by you, at the address shown in your schedule, including its garages and outbuildings". The sum insured under the contents cover was £54,000 and Miss M valued the items stolen at over £16,000.

The policy does not define what constitutes an "outbuilding".

The building in question
The policy wording includes specific definitions for a number of terms used within the document though, understandably, some words remain without a specific definition. In those situations, we rely on the ordinary meaning of the word.

In this case the parties have provided definitions for the word "outbuilding" which they obtained themselves. Miss M says that UKI's definition was incorrect. The definition UKI relied on was: "a building such as a shed or stable that is built near to, but separate from, a main building…a large farmhouse with several outbuildings".

Miss M's dictionary definition was: "An ancillary building near to or adjoining a main building, esp. a shed, stable etc. near to the main house on a farm; an outhouse".

I have also consulted other dictionaries and obtained the following definitions:

- *"usually small building near to and on the same piece of land as a larger building..."*
- *"a building (such as a stable or a woodshed) separate from but accessory to a main house"*
- *"a building subordinate to but separate from a main building; outhouse"*

Taking into account the above definitions, I think a building such as Miss M's which was in her garden and was separate to the main building could be classed as an outbuilding mainly because structurally it wasn't part of the main building.

Miss M believes that determining what should be classed as an outbuilding and what shouldn't be, is based on its use. She says under the dictionary definition an outbuilding is a building used for ancillary purposes such as a shed or a stable. She said her building was an office and was used as an extra part of the house. Miss M has said that ancillary means subordinate, subsidiary, supplementary etc. which isn't what she considers her building to be because it was effectively part of the house.

I have considered Miss M's argument, but I am afraid I don't agree with her. The reason for this is that I don't think it is fair or reasonable to restrict "ancillary" just to the use of the building. I think, reasonably, "ancillary" could also apply to the structure of the building, as UKI has argued. I say this because I think it would be more reasonable to say that a building is supplementary, subsidiary or subordinate to the main building if, for example, the main building is made out of bricks and mortar, but the other building is made out of less sturdy material such as wood. Equally, there are activities carried out in the main home that one can carry out in temporary structures outside a main building, and I wouldn't consider those

structures to be part of the home because of this. For example, I wouldn't consider a tent, which is used for sleeping in which is a domestic activity, to be part of a main home.

Miss M says that the fact that there is no definition for "outbuilding" within the policy and that UKI has had to rely on the dictionary definition which can vary, makes the contract ambiguous. And this means that it should be interpreted in a way that is more favourable to her. I have considered this argument but again I am afraid I don't agree with Miss M. I don't think the fact that there is no specific definition for "outbuilding" means there is ambiguity in the contract. And I don't think that the dictionary definitions I have considered vary to such an extend to make the term "outbuilding" ambiguous. As I said above, it is common for insurance policies not to define every term used therein and this doesn't mean that having to consult a dictionary makes the contract unfair or ambiguous.

Though in arriving in my decision I take into account the law, standard industry practice, rules and regulations ultimately my remit is to decide what is fair and reasonable in all the circumstances. In these specific circumstances, for the reasons above I think UKI has fairly classed the particular building as an outbuilding. I say this because it is a building which is separate to the main building, and it is ancillary or subordinate to it in terms of its structure. I appreciate Miss M says that this isn't the case because the building has heating, insulation, carpets, double glazing etc. but this doesn't mean that it is of the same standard as the main building. For example, it is made out of wood and not bricks and mortar and has wooden walls and a wooden ceiling.

I also agree with UKI's argument that the particular building would also be subordinate to the main building in terms of its security. As I said above it was made out of wood, the doors were made out of glass which would make the contents easily visible, and someone could break into it without those in the main house realising.

It follows that I agree that UKI fairly applied the £2,500 limit which applies to outbuildings on this occasion.

Miss M is also seeking to recover her legal fees which amounted to £3,600 for bringing her complaint to us. As Miss M may be aware, we aim to deal with complaints with minimum formality and encourage those who come to us to do so directly. We also have processes in place whereby we can assist those who may be in need of further assistance. But a great number of those who come to us bring their complaints without the help of a solicitor or another representative. I appreciate Miss M feels that the issues involved were complex and required the help of a solicitor, but I think this is a complaint which Miss M could have referred to us herself. It follows that I won't be asking UKI to pay Miss M's legal fees."

UKI accepted my provisional decision but Miss M didn't. She raised a number of points that she wanted me to consider which I summarise below:

- As there is no definition of the word "outbuilding" in the policy this means the relevant term is ambiguous and should be interpreted in her favour as the non-drafting party. The ambiguity is further supported by the fact that the first investigator reached a different outcome to the second investigator. This is in line with the Consumer Rights Act 2015 (CRA).

- The dictionary definition of “outbuilding” which includes an ancillary building means the building is ancillary in terms of its function. The building was not subsidiary in function and was used daily for work purposes, meetings and storage and replicates the same domestic functions as a room in the house.
- UKI was in breach of its regulatory obligations. It failed to provide clear communication by failing to define “outbuilding” which is a critical word within the policy, and it cherry-picked dictionary extracts in an attempt to provide a definition after the incident.

Miss M added that UKI delayed responding to her complaint. She said UKI should pay her £12,500 under the contents section plus interest. It must also pay £5,000 for the distress and inconvenience it caused her and reimburse her for her reasonable costs.

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’d like to thank Miss M for her continued engagement with us. I appreciate that she feels very strongly that her complaint should be upheld and has made many arguments as to why that should be the case. I’d like to assure her that I have considered all the evidence and arguments she has provided us with. And though I may not address each one individually in this decision this doesn’t mean that I haven’t considered it. No discourtesy is intended by this. We aim for our decisions to be as concise as possible. We also aim to resolve disputes quickly and with minimum formality.

Miss M said that UKI failed in its regulatory obligations by failing to define the word “outbuilding”. I understand the point Miss M is making, but it isn’t within this service’s remit to tell an insurer how to draft its policy terms, that’s a matter for it to decide. Our role is to interpret them and to make decisions based on those terms. This includes deciding if a term is unfair or ambiguous.

Miss M also maintains that UKI’s failure to define the word “outbuilding” within the policy means the term is ambiguous and, under the CRA, this term should be interpreted in her favour. As I said in my provisional decision, I am not persuaded that the term is ambiguous simply because it isn’t specifically defined and that in the absence of a definition, we take the ordinary meaning of the word. In this case I think the ordinary meaning of the word “outbuilding” is a building which isn’t part of the main building. And in Miss M’s case, the building in question is in her garden and this, in my view, makes it an outbuilding. Both parties provided their own dictionary definitions, and I was able to find some further examples which I referred to in my provisional decision. The definitions are consistent in saying that an “outbuilding” is a building which is near to, separate or adjoining a main building. In my view, Miss M’s building which as I said above is in her garden, falls within the definition of “outbuilding”. Miss M says that the building’s use and function is what I need to take into account in considering whether it is an “outbuilding” or not. This is something I have already addressed in my provisional decision and I won’t repeat my findings here.

Miss M also said that UKI delayed responding to her complaint. From what I have seen, this isn’t something she has raised with us before but in any event, I note that she brought her

complaint to us without delay so she wasn't impacted by the delay she says UKI caused. In the circumstances I'm not minded to award any compensation for this part of the complaint.

The rest of my findings are the same as the findings I made in my provisional decision and now form part of this, my final decision.

My final decision

For the reasons above I have decided not to uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 2 September 2025.

Anastasia Serdari
Ombudsman