

## **The complaint**

Mr M and Ms M complain that U K Insurance Limited trading as Direct Line (“UKI”) unfairly declined a claim under their landlord insurance policy.

Mr M has acted as the main representative during the claim and complaint process. So, for ease of reference, I will refer to any actions taken, or comments made, as those of “Mr M” throughout this decision.

## **What happened**

Mr M held landlord insurance with UKI for two rental properties. He first purchased a policy in September 2022 and later bought a second policy for the same properties in June 2024. One of the properties was leased to a limited company under a commercial tenancy agreement.

In October 2024 Mr M discovered that the property had been severely damaged and then been used as an illegal cannabis farm. He contacted UKI to make a claim for malicious damage and he also provided a crime reference number and said the damage had been caused by criminals, not by lawful tenants.

UKI appointed a loss adjuster to inspect the property and review the policy to confirm whether there was any cover for the claim. Mr M said UKI's last adjuster attended the property and met with him and outlined that the policy covered malicious damage and the claim would be met. The loss adjuster later sent correspondence that requested documentation about the tenancy arrangement and said that they needed to refer the claim to UKI for further instructions. The loss adjusters later wrote to Mr M to explain that UKI was still reviewing the tenancy information, that inquiries were ongoing with the limited company, and that they were waiting for procedural instructions. Mr M said this correspondence was inconsistent with what he understood from his earlier discussions in person with the loss adjuster and it created confusion and delay.

In January 2025, UKI wrote to Mr M to explain that the tenancy arrangement with the limited company, who had sublet the property, breached UKI's policy assumptions. They said the breach could allow them to avoid the affected policies entirely, however they said they were willing to give Mr M the benefit of the doubt, as it appeared the limited company was not acting in his best interest. UKI said they would allow their claims team to continue reviewing the malicious damage claim on the lapsed policy but required Mr M to take a number of steps within 30 days for cover to remain in place. These requirements included ending his agreement with the limited company, securing new tenants on an assured shorthold tenancy agreement, and providing evidence that legal landlord obligations had been met. Mr M said that he felt these requirements were impossible to meet, given the extent of the damage and the ongoing dispute with the limited company.

In March 2025, UKI issued a formal decline of the malicious damage claim. They said the policy excluded malicious damage caused by tenants or persons lawfully in the property. Mr M felt UKI's response was unfair and raised a complaint. He said UKI had changed their position on the claim and that the damage had been caused by criminals, not tenants. He

said the tenancy agreement had been frustrated and legally void when the property was used for an illegal cannabis farm, meaning the occupants were trespassers and therefore the exclusion did not apply. He said UKI's letter which stated they would continue with the claim for malicious damage was a clear acceptance of cover that he had relied on. He also said UKI had imposed conditions in bad faith that he could not reasonably have complied with.

UKI considered the complaint but did not uphold it. They maintained that Mr M had leased the property to the limited company who had in turn sub-let the property. UKI said that on the available information, the damage had been caused by people who were lawfully in the property and said that this meant the policy exclusion applied. UKI also outlined that their loss adjuster had not confirmed cover and had correctly referred the matter back to UKI for a claim decision. Mr M remained unhappy with how UKI had handled his claim and complaint – so, he brought it to this Service.

An investigator looked at what had happened but didn't think the complaint should be upheld. He said he was satisfied UKI had fairly applied the policy exclusion, as the tenancy agreement with the limited company meant they were authorised to occupy the property at the time that the damage occurred. Investigators said the loss adjuster had not confirmed indemnity for the claim and that, in his opinion, the January 2025 letter did not amount to acceptance of the claim.

Mr M disagreed with the Investigator's outcome and provided detailed submissions in which he said the investigator had misapplied the law, ignored relevant Financial Ombudsman Service decisions, and failed to consider relevant legal doctrines. Mr M asked for an Ombudsman to consider the complaint – so, it's been passed to me to decide.

### **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 should explain from the start that I won't be repeating the entirety of the complaint history here in my decision or commenting on every point raised. Mr M's submissions, both before and after the Investigator issued their outcome, are detailed and lengthy. While I thank Mr M for them, both parties are aware of these, and I do not intend to repeat their detail here in full. Instead, I've focussed on what I consider to be the key points that I need to think about in order to reach a fair and reasonable conclusion. This reflects the informal nature of this Service and our key function; to resolve disputes quickly, and with minimum formality. However, I want to assure both parties I've read and considered everything provided.

I also want to set out what I will be looking at as part of my decision. I'm aware Mr M has brought a complaint about the sale of his policies which this Service is also considering separately. And that means I won't be making any findings about the sale of the policy in this decision. However, as both complaints arise out of the same set of background events, there may be instances where I refer to background information that overlaps the complaints.

I should make it clear from the outset that it isn't my role to determine exactly who set up or operated the cannabis farm at Mr M's property. My role is to decide whether UKI acted fairly and reasonably and in line with the policy terms when they declined to the claim. The relevant regulator's rules say that insurers must handle claims promptly and fairly, and that they mustn't turn down claims unreasonably. I've taken those rules into account, along with other relevant considerations, such as the relevant regulatory guidance and principles, when deciding whether I find UKI treated Mr M fairly. I've focused my findings on the two main

aspects of this complaint below: the decline of the claim due to the policy exclusion, and UKI's handling of the claim thereafter.

### Policy exclusion

The relevant policy exclusion UKI declined cover for Mr M's claim says it won't cover malicious damage:

*"caused by Your Employees, tenants or any other persons lawfully in Your premises."*

In general, an exclusion clause is intended to exclude cover in certain situations; for example, where a policyholder exposes themselves to a risk that the insurer doesn't want to cover. And insurers are entitled to decide what risk they will insure against – as long as they make this clear.

There's no specific definition of what UKI considers 'lawfully' to mean. So, the starting position for undefined words in insurance contracts is to use their ordinary, everyday meaning. And I would consider an ordinary meaning of 'lawfully' to be fairly understood as in a way that is allowed by the law. UKI's position is that the property had been let to a limited company under a commercial agreement, and that limited company had then sublet the property to others. UKI said the available evidence demonstrated that the damage had been caused by people who were lawfully in the property through that arrangement, and therefore the exclusion applied. Having thought about UKI's position very carefully, I don't think that's an unreasonable position for them to have taken.

I appreciate that Mr M's core argument is that the tenancy was legally frustrated or voided due to the property being used for an illegal purpose. And I've considered the legal arguments Mr M has raised, including frustration, illegality, estoppel, and contra proferentum. I sincerely appreciate why he considers those to be important, but I don't think they change the outcome that I've reached. Based on the available evidence, I haven't seen anything that persuades me that tenancy had been legally brought to an end before the damage occurred, and there's nothing to demonstrate the tenants had been removed or lost their right to occupy the property at the relevant time of the loss. In those circumstances, I think it was fair and reasonable for UKI to treat the occupants as people who were lawfully in the property for the purposes of applying the relevant exclusion in the policy.

I've also thought about the previous Ombudsman decisions Mr M has referred to, and I appreciate why he considers those to be important to his complaint. But under DISP 3.6.1, I'm required to determine a complaint by reference to what is, in my opinion, fair and reasonable in all the specific circumstances of a particular case. And many of the decision references Mr M has provided were decided on their own specific facts and turned on issues that aren't present here, such as a clear and unambiguous acceptance of liability or a tenancy that had already been legally terminated before the loss occurred. They do not establish a general principle that would require me to reach a different outcome in this case. So, while I've taken Mr M's submissions into account, I don't think they change the question of whether UKI fairly relied on the exclusion on the evidence available to them at the time.

Taking everything into account, I'm satisfied overall that UKI has demonstrated it was reasonable for them to rely on the relevant policy exclusion for *persons lawfully in the premises*, and it follows that I find their decline of the claim was fair.

### UKI's handling of the claim

I appreciate that Mr M says that the letter from January 2025, which said that the claim department would continue with the claim for malicious damage, amounted to an acceptance

of the claim and he says it created a legitimate expectation that they would settle it. I've considered those submissions carefully, but in my view, the letter was framed in the context of UKI explaining what they would need to happen in order for cover to continue. I'm not persuaded the letter confirmed indemnity had been accepted, and so I do not find that UKI accepted liability and later withdrew it.

I've considered how UKI handled the claim overall, and whether I think their communication contributed to any avoidable delays or confusion. I appreciate Mr M feel strongly that UKI changed their position, imposed unreasonable conditions, and acted in bad faith. But I don't agree the evidence supports that conclusion. I've also thought about the letter which set out a list of requirements UKI wanted Mr M to undertake. While I accept these may have appeared to have been demanding, and I sympathise with why Mr M found them unrealistic given the extent of the damage and the ongoing issues, I don't think those conditions affect the conclusion I have reached in relation to why the claim was declined. The letter did not set out that the claim would be accepted on the basis of those conditions, instead, it outlined that they were required in order for cover to continue.

In terms of communication, I appreciate there were periods where Mr M felt he wasn't clear on what was happening, particularly after the loss adjuster's initial attendances with him. But there's nothing I've seen that persuades me that the loss adjuster had confirmed cover had been accepted. Rather, the loss adjuster outlined the claim had been sent back to UKI for a decision. And while I can see that that process did take some time, I haven't seen any persuasive evidence that UKI acted unreasonably or caused avoidable delays that materially changed the outcome. Taking everything together, I don't find that UKI's handling of the claim amounted to unfair conduct, and I haven't seen evidence that persuades me that UKI misled Mr M about the claim, confirmed cover and then reversed their position, or acted in a way that would justify me making an award of compensation.

## **Conclusion**

I sincerely appreciate that this won't be the outcome Mr M has hoped for. And I don't underestimate the disruption this claim has caused him all the financial consequences he has described. But because my decision is that UKI fairly applied the policy exclusion when it declined to the malicious damage claim, there is no insured event on which financial losses can be based. The losses Mr M has referred to, including the deterioration of the property, rental income, and the resulting financial hardship, all flow from the declined claim.

As I explained earlier, I appreciate that Mr M has made extensive submissions about this complaint, and I want to assure him that I've read and considered all of the evidence and detailed submissions provided, even where I haven't referred to every point directly. But taking everything together, I'm satisfied that UKI acted fairly in relying on the exclusion and I don't think there is a fair or reasonable basis on which I can direct them to reconsider the claim or make any payments under the policy. So, while I appreciate this won't be the outcome Mr M was hoping for, I trust my decision explains why I have reached the decision that I have.

## **My final decision**

For reasons I have outlined above, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M and Mr M to accept or reject my decision before 5 January 2026.

Stephen Howard

**Ombudsman**