

## **The complaint**

Mr S and Miss V complain about U K Insurance Limited (“UKI”) and their refusal to remove a subsidence claim from internal and external records.

Mr S has acted as the main representative during the complaint process. So, for ease of reference, I will refer to any actions taken, or comments made, by either Mr S or Miss V as “Mr S” throughout the decision where appropriate.

## **What happened**

The claim and complaint circumstances are well known to both parties. So, I don’t intend to list them chronologically in detail. But to summarise, Mr S and Miss V held a joint home insurance policy, underwritten by UKI, when they noticed cracking in their garage which a builder informed them was due to subsidence. So, they contacted UKI in 2017 to make a subsidence claim.

UKI arranged for the damage to be inspected. And after considering reports from a surveyor and arboriculturist, they accepted the claim on the basis that subsidence was the cause of the damage. But ultimately, after an extended period of monitoring which showed the garage had stabilised, Mr S disputed that subsidence was the cause of the damage. So, he requested UKI remove any record of the subsidence claim, citing the impact it had on his insurance premiums and potential ability to sell the property.

UKI refused to do so, maintaining their position that subsidence was the likely cause of the damage and continued to offer to arrange the required superstructure repairs. Mr S was unhappy with this, so he raised a complaint about it, reiterating why he felt the claim should be removed based on the claim history, monitoring data and advice provided by UKI’s solicitors. Mr S also referred to his own expert opinion he had obtained, although this wasn’t provided to UKI for their consideration at the point of their complaint response.

UKI responded to the complaint and didn’t uphold it, setting out why they felt they were fair to refuse removing any record of the subsidence claim. And they continued to request sight of Mr S’ own expert report. Mr S remained unhappy with this response, so he referred his complaint to us.

Our investigator looked into the complaint and didn’t uphold it. Both parties have had sight of this outcome, so I won’t be recounting it in detail. But to summarise, they set out why they thought UKI were fair to refuse removing the claim from internal and external records considering UKI’s expert reports stated subsidence was the cause of the damage.

And they set out why they weren’t persuaded by Mr S’ own expert report that UKI should do something differently. So, they didn’t recommend UKI do anything more.

Mr S didn’t agree. His arguments included, and were not limited to, his insistence that the evidence found following monitoring, and the advice of UKI’s own solicitors alongside scientific logic, showed subsidence wasn’t the cause of the damage. So, he maintained that it was unfair to record a claim of subsidence, considering the impact it has on him financially

moving forwards. As Mr S didn't agree, the complaint has been passed to me for a 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.

Having done so, I'm not upholding the complaint, for similar reasons to our investigator. While I note some of my reasoning may feel as though it differs from the thoughts presented by our investigator, I want to be clear my decision has been made based on the same evidence and ultimately, my own review has led to me reaching the same outcome.

I've also focused my comments on what I think is relevant, in line with our services informal approach. So, if I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

And before I explain why I've reached my decision, I want to set out clearly what I've considered and more importantly, how. It's not my role, nor the role of our service, to re-underwrite the claim or act as a replacement claim handler, as we don't have the expertise to do so. This means I won't be speculating on what I believe was the cause of the damage to Mr S' garage, nor have I scientifically reviewed or made a finding on what the monitoring data suggests.

Instead, it is my role to consider the decisions and actions UKI have made, and taken, to decide whether I'm satisfied they have acted fairly and reasonably when refusing to remove the record of the subsidence claim. In this situation, I'm satisfied they have and I'll explain why.

I recognise Mr S feels strongly about the situation, and the way the claim has been recorded. And he's spoke at length about why he feels the evidence, including the fact the garage appeared to stabilise when monitoring was undertaken, shows that subsidence wasn't the cause of the cracking present when he first raised his claim.

But I must be clear that a property stabilising after damage has occurred doesn't definitively mean a subsidence episode didn't occur. In circumstances such as Mr S', where clay soil shrinkage is identified as a likely cause of the damage, there can be occasions where a property stabilises without the need for substructure repairs. Because of this, and the nature of subsidence which can be impacted by several factors, our service would expect an insurer to obtain expert opinions to help lead them to a fair and reasonable approach on how to repair any damage that is found.

And when doing so, our service usually deems it reasonable for an insurer such as UKI to rely on these expert opinions they obtain, unless there is a conflicting expert opinion from a suitably qualified expert that suggests they ought to have done something differently. In this situation, I'm satisfied that UKI obtained reports from a subsidence specialist, and an arboriculturist, that both deemed the damage found on Mr S' garage to have been caused by subsidence – specifically clay soil shrinkage and the impact of nearby vegetation.

So, considering this and the fact that when Mr S made his claim he himself suggested subsidence was the most likely cause of the damage based on the opinion of a builder he used, I'm satisfied UKI were fair to process, and crucially record, the claim on this basis as the claim progressed.

And because of the above, even though the property appeared to stabilise, I'm not satisfied this in itself means UKI ought to have done something differently and crucially, that they

were unfair when continuing to record the claim as subsidence.

I note Mr S is unlikely to agree. And I recognise he has provided our service with a report, compiled by a structural engineer, that he feels supports his own position that it wasn't subsidence, but instead settlement, that caused the damage. But crucially, I've seen no evidence to show this report was provided to UKI for them to consider before they issued their complaint response. This is despite Mr S confirming to UKI in 2023 he intended on obtaining this report, and despite several requests for the report to be provided after that time, especially in the months leading up to UKI's complaint response.

I must be clear that my decision can only consider the evidence available to UKI when processing the claim and responding to a customer's complaint. So, if Mr S wants this report to be considered by UKI as he feels it provides an expert opinion that disputes their own, he will need to provide it directly to UKI for them to consider. It would then be up to Mr S and UKI to engage directly to decide on next steps, if any need to be taken. Crucially, as the report wasn't available for UKI to consider prior to our services involvement, it's not something I'm able to consider when reaching the decision I have.

Further to this, without the report being provided to them, I'm satisfied UKI offered Mr S other reasonable avenues to allow them to investigate and consider his concerns. I've seen evidence that satisfies me on multiple occasions UKI, sometimes through their agents such as the loss assessor, offered to complete another site inspection based on Mr S disputing subsidence was the cause of the damage. And from what I've seen, Mr S continued to refuse this option.

So, without being provided with Mr S' structural engineers report nor the ability to complete another site investigation, I'm satisfied UKI were fair to rely on the original expert opinions they obtained which outlined subsidence as the cause of the damage. Because of this, I'm satisfied they have acted fairly when recording the claim on this basis and then refusing to amend or remove the recording of this claim as they have an obligation to record any claim they process accurately. And, that they haven't made an error that has led to Mr S being adversely financially impacted considering a subsidence claim is likely to have an impact on future insurance premiums. So, I'm not directing UKI to do anything more for this aspect of the complaint.

I recognise this isn't the outcome Mr S was hoping for. And I want to reassure him again I've considered all the points he's raised, even if I haven't spoken to them directly in line with our services informal approach. I recognise he spoke at length about UKI's legal advice they obtained, which stated UKI were unlikely to be successful in a claim with the council to remove a protected tree. But having read through this advice, I'm satisfied this does not state that subsidence wasn't the cause of the damage. Instead, it discussed how the stabilisation shown in the monitoring made a claim to remove the tree likely to be unsuccessful. And as I set out above, stabilisation on its own isn't enough to prove an episode of subsidence didn't cause the damage being claimed for.

I note Mr S also raised concerns about UKI's reference to his lack of cooperation during the claim. But having reviewed the file, I'm satisfied that UKI's progression of the claim was delayed due to the decisions Mr S took.

For example, his request to delay the superstructure repairs until he was ready to allow them to take place, his refusal to allow another site inspection and his failure to provide his own engineers report, despite several requests.

So, I can't agree that UKI have acted unfairly or unreasonably when referencing these as reasons as to why the claim has been ongoing for as long as it has. And for this reason, I'm

not directing UKI to compensate Mr S for any emotional impact these references may have caused him.

It ultimately remains up to Mr S whether he wishes to provide UKI with a copy of his structural engineer's report or allow another site inspection to take place. Should Mr S agree to this, I would expect UKI to consider the evidence these present appropriately, to ensure the claim is still recorded correctly moving forwards.

### **My final decision**

For the reasons outlined above, I don't uphold Mr S and Miss V's complaint about U K Insurance Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S and Miss V to accept or reject my decision before 30 April 2026.

Josh Haskey  
**Ombudsman**