

The complaint

Mr B and Mr S complain about how U K Insurance Limited trading as Direct Line (UKI) dealt with a claim on their home insurance policy for damage to their property from a water leak.

UKI use agents to administer the policy and to assess claims. Reference to UKI includes these agents.

What happened

In August 2021, Mr B and Mr S had an underfloor leak at their property. A plumber was able to fix the leak, but Mr B and Mr S contacted UKI about the damage from the leak. UKI appointed a surveyor (P) to assess the damage. From P's inspection, as well as damage caused by the leak, there was evidence of dry rot and spores/mould that made the property unsuitable to continue living in. UKI arranged for alternative accommodation for Mr B and Mr S. Based on P's assessment and the presence of dry rot, UKI also appointed a loss adjuster (S) to assess the work needed to repair the damage caused by the leak, as well as a specialist firm (W) to carry out a further assessment of the property and the damage, specifically on the presence of dry rot.

W inspected the property and, in their report, concluded the dry rot wasn't the result of the leak. Based on this, UKI made an initial cash settlement offer of £4,099 (subsequently increased to £5,660) for the repair of the damage caused by the escape of water (which they paid in September 2021). However, the settlement didn't include anything for the dry rot, as damage caused by dry rot was excluded under the terms of the policy.

Mr B and Mr S challenged UKI's decision and complained, unhappy at how UKI had handled their claim. They said the damage was the result of the leak. They were also unhappy at delays in dealing with their claim, and the stress this caused them (including their mental health, leading to having to take time off work). They wanted UKI to reconsider their claim (and the decline of that part of the claim due to the dry rot exclusion).

UKI upheld the complaint in part. They apologised for the delays, upset and trouble caused by poor communication and service during the handling of the claim, for which they awarded £150 in compensation. But they didn't uphold the part of the complaint about the decline of cover for the dry rot at the property (which they said, based on the report of W, wasn't connected to the damage from the leak). They referred to the policy exclusion for damage caused by dry rot. Based on this, they confirmed the figure of £5,660 in full and final settlement of the claim for damage caused by the leak.

Mr B and Mr S then complained to this service. They were unhappy at the cash settlement offered by UKI, saying it wouldn't cover the damage caused solely by the leak. The leak would have exacerbated any underfloor damage that may have been the result of dry rot, and the delay in assessing their claim would also have exacerbated the damage. They were also unhappy at not being provided with P's assessment and the service they'd received from UKI. They also thought UKI's compensation of £150 wasn't sufficient for the physical and mental stress they'd suffered.

Our Investigator upheld the complaint in part. She thought delays and poor communication from UKI had caused distress and inconvenience to Mr B and Mr S over and above what we'd expect to see. She thought UKI should pay a further £200 in compensation, in addition to the £150 they'd already paid. On the settlement offered for the claim and decline of the element for dry rot, she thought UKI's offer was fair, and Mr B and Mr S hadn't provided any evidence to show it wasn't fair. While there was some delay between the assessments of P and W, she didn't think this made a significant difference to the remedial work needed.

Mr B and Mr S disagreed with the Investigator's conclusions, so I've been asked to review the complaint. In disagreeing, Mr B and Mr S raised several points. First, that UKI hadn't determined what damage was due to the leak and that due to dry rot. Second, they referred to publicly available cases where dry rot had been covered. Third, the delays in assessing their claim had increased the damage to their property. Fourthly, they didn't think the compensation figure recommended by the investigator was adequate for the stress and inconvenience they'd suffered, including the impact on their mental health.

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 first want to say I've considered carefully what Mr B and Mr S have told us about the impact of the incident and how UKI handled their claim, in terms of the stress and impact on their wellbeing and mental health (both when bringing their complaint to this service and when responding to our Investigator's view). I've borne this in mind when forming my findings and conclusions.

My role here is to decide whether UKI has acted fairly towards Mr B and Mr S.

There are several elements to Mr B and Mr S's complaint, which I'll consider in turn. First, that UKI hadn't determined what damage was due to the leak and that due to dry rot. Linked to this, Mr B and Mr S refer to publicly available cases where dry rot had been covered. Second, they are unhappy at the cash settlement offered by UKI, saying it won't cover the damage caused solely by the leak. Third, the delays in assessing their claim increased the damage to their property, and the leak would have exacerbated any underfloor damage that may have been the result of dry rot. Fourth, they don't consider UKI's compensation of £150 (nor the additional £200 recommended by our investigator) sufficient for the physical and mental stress they suffered. They are also unhappy at not being provided with P's assessment and the service from UKI.

On the first issue, I've looked at the sequence of events from the time Mr B and Mr S told UKI about the leak and the damage, including how UKI dealt with the claim (including the assessments by P and W) as well as the settlement offered.

When the claim was first notified to UKI, they appointed P to visit the property and assess the damage. From what I've seen, this took place 10 days after the incident was notified. I don't think this is unreasonable. Following P's visit, UKI initially appointed S (as a loss adjuster) but then reversed this decision when (following W's report) the extent of the damage (and UKI's cover for it) was less than the threshold above which UKI would routinely appoint a loss adjuster. The claim was put on hold pending W's visit and report.

W's visit took place at the beginning of September, four weeks after the incident with the leak. While I recognise Mr B and Mr S's concerns at the length of time to W's visit, given the specialist nature of the inspection (and the need for it arising from P's assessment) I don't think it's an unreasonable timescale.

Turning to the report itself, it clearly sets out the basis of the inspection and the findings about the presence of active dry rot. The report covers different areas and rooms in the property and includes the following comments:

1. *The void space in the hallway closest to the party wall is heavily infested with active dry rot (serpula lacrymans) growth...*
4. *The EOW is not the cause of the dry rot infestation but very likely contributed to the excessive humidity in the void space and allowed the dry rot to increase in its activity within the void space."*

Based on these findings, W's report recommended a remedy of full removal of all structural wood components, floor joist and subfloor components (as well as lower render on ground floor walls, to ensure no active growth behind).

Given the specialist nature of the assessment and the detailed findings and conclusions in the report, I'm persuaded it shows the presence of dry rot at the property – and that it wasn't the result of the leak (although the leak may have allowed the dry rot to increase).

As the presence of dry rot was confirmed by W's report, I've gone on to consider UKI's decline to cover the cost of any work to remove the dry rot. In their final response, UKI refer to the following exclusion and policy booklet wording under the heading "*This policy doesn't cover*":

x Just like most insurers we don't cover:

- *Damage caused by rot, fungus, woodworm, beetles, moths, insects or vermin..."*

I think this makes it clear damage from [dry] rot isn't covered. As a general principle, where an insurer relies on a policy exclusion to decline a claim or part of a claim (as UKI did), then the onus is on them to show the exclusion applies. Looking at the available information and evidence, particularly the findings and conclusions in W's report, I think UKI have done so in the specific circumstances of this case.

So, I've concluded UKI fairly declined to cover the damage caused by dry rot.

I've also considered Mr B and Mr S's linked point, the publicly available cases where dry rot has been covered. Having looked at these cases, I don't think they change my conclusion that UKI fairly declined to cover the damage from the dry rot. I say that because the more recent source (the other is almost six years ago) indicates insurers may cover dry rot – but where the cause is an insured peril or event (such as a leak). However, in this case, the conclusions in W's report indicate clearly this isn't the case (the reference to the EOW – escape of water – wasn't the cause of the dry rot). So, this hasn't changed my conclusion.

While W's report indicates the leak is likely to have allowed the dry rot to increase its activity, given the timeline of events, I don't think this would have been significant (and I've seen no evidence to suggest otherwise).

Coming back to Mr B and Mr S's first point, that UKI didn't determine what damage was due to the leak and that due to dry rot, I've looked at the basis for the settlement figure paid. From UKI's case notes, it appears they initially made an offer of £4,099 (£3,648 net of the policy excess of £450) which was subsequently increased to the £5,660 final settlement figure (which UKI say Mr B and Mr S accepted). This figure comprises individual elements for stripping-out the affected areas of the property; drying; reinstatement and alternative accommodation for Mr B and Mr S. The higher, final settlement figure appears to have been increased by additional alternative accommodation costs (not the other elements).

These are all elements I'd expect to see included to reinstate damage of the nature caused by the incident. While I haven't seen a detailed breakdown of the scope of work covered by the settlement, as it covers the elements I'd expect to see, I can't say that it's unfair or unreasonable.

While UKI say Mr B and Mr S accepted the settlement, they're unhappy at the settlement, saying it won't cover the damage caused solely by the leak. However, I've not seen any evidence to support this point, nor that UKI's settlement offer was unfair (given that it would be based on contractor rates UKI are able to negotiate with their network of suppliers, which are likely to be discounted). So, I can't conclude UKI have acted unfairly in this respect.

On the point about not seeing P's assessment, from what UKI have said, there isn't a formal report, rather details are uploaded onto UKI's systems. However, from what I've seen from UKI's case notes (and description of P's visit by Mr B and Mr S) the inspection included what I'd expect (such as moisture readings). It's also clear the inspection identified the presence (or likely presence) of dry rot and the subsequent need for a specialist assessment (by W). So, this doesn't affect my conclusions.

Mr B and Mr S's final point is about the level of compensation for the distress and inconvenience from the incident and UKI's subsequent assessment and handling of the claim. UKI have recognised shortcomings in the way they handled the claim, delays and lack of communication. They awarded £150 in compensation, which our investigator thought wasn't sufficient and recommended an additional £200 (making a total of £350).

I've thought carefully about what would be fair compensation for Mr B and Mr S for the stress they've suffered, which they've described in detail when bringing their complaint to this service, and subsequently. I've also considered my conclusions that UKI acted fairly and reasonably when declining to cover the damage from dry rot, and that they haven't acted unreasonably in the cash settlement they made. Considering what Mr B and Mr S have told us, I think UKI's actions have caused considerable distress, upset and worry and significant inconvenience and disruption over a period of weeks (including a significant period in alternative accommodation). Taking all the circumstances into account, I think £350 is reasonable compensation for the distress and inconvenience Mr B and Mr S have suffered.

My final decision

For the reasons set out above, it's my final decision to uphold Mr B and Mr S's complaint in part. I require U K Insurance Limited trading as Direct Line to:

- Pay Mr B and Mr S £350 in compensation for distress and inconvenience.

U K Insurance Limited trading as Direct Line must pay the compensation within 28 days of the date on which we tell them Mr B and Mr S accept my final decision. If they pay later than this, they must also pay interest on the compensation from the date of my final decision to the date of payment at 8% a year simple.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B and Mr S to accept or reject my decision before 9 February 2023.

Paul King
Ombudsman