

The complaint

Mrs L complains about the way U K Insurance Limited (“UKI”) handled a subsidence claim made on her buildings insurance policy.

Mrs L is being represented on this complaint but for ease, any reference to her includes the comments of her representative. Any reference to UKI includes the actions of its agents.

What happened

The circumstances of this complaint are well known to both parties, so I’ve summarised what’s happened.

- Mrs L has a buildings insurance policy which is underwritten by UKI. In December 2020, she made a claim on the policy having noticed crack damage to her property.
- In February 2021, UKI accepted the claim saying the damage had occurred due to clay shrinkage subsidence. It said the subsidence had been caused by roots extracting moisture from the subsoil - resulting in volume changes which in turn had affected the foundations.
- UKI said practical vegetation management was required to stabilise the property. And that once the property had stabilised, repairs would be carried out. The repairs commenced in September 2021.
- Unhappy with how the claim was being handled, Mrs L complained. In March 2022, UKI issued a final response letter (FRL) accepting it had taken too long to provide Mrs L with an explanation regarding the schedule of repairs, and that this had in turn delayed the repairs. It paid £100 compensation to recognise this.
- Another FRL was sent in May 2022, in which UKI paid £100 compensation to recognise its agent had failed to call Mrs L in a timely manner.
- Concerned the stabilisation solution wouldn’t prevent further crack damage, Mrs L complained to UKI in February 2023 and asked for it to cover the cost of paying for an independent surveyor. She also said crack damage had appeared which hadn’t been addressed by UKI’s agent.
- In May 2023, UKI issued another FRL in which it paid £200 compensation for not following its complaints process - it said this had resulted in Mrs L’s concerns about the claim not being addressed.
- In its response it asked Mrs L to provide photographs of the new crack damage so it could review this. But it said it was satisfied the appropriate surveys, mitigation works, and repairs had rectified the problem.
- Unhappy, Mrs L brought a complaint to this Service. An Investigator upheld it and said as UKI had already been notified of the crack damage and seen it, its request for

photographic evidence was unnecessary and delayed matters. So, she said it should pay an additional £100 compensation.

- She was however, satisfied the mitigation work carried out was reasonable as the surveyor hadn't recommended underpinning the property.
- In response, UKI said it had instructed its agent to look into the crack damage and confirmed it was actively working on the matter. It also agreed to pay the additional £100 compensation.
- Mrs L disagreed with the Investigator's view saying she was concerned the crack damage would reoccur - particularly as she'd had a previous subsidence claim in 2010. So, she considered her request for an independent survey and underpinning to be reasonable.
- She said the compensation didn't reflect the difficulties she'd experienced over the life of the claim, and that it was unfair her premiums had increased. And she said UKI had incorrectly advised that the crack in question was present at the start of the claim.
- Because Mrs L disagreed, the complaint has been passed to me for an Ombudsman's 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've also kept in mind UKI's responsibilities as an insurer to handle claims fairly and promptly. Having done so, I agree with the outcome our Investigator reached.

But before I explain why, it's important to clarify the scope of this complaint. I'm aware UKI sent FRLs in March and May 2022. However, these complaints were not referred to this Service within six months of the date of these letters, and so, I can't consider the fairness of any compensation awards made in these FRLs.

UKI issued a subsequent FRL in May 2023 – and it's this which my decision focusses on. So, whilst I'm aware Mrs L feels strongly her claim has been mismanaged throughout the life of it, I can only consider events between May 2022 and May 2023, and the concerns addressed in the latter.

Crack damage

Mrs L says concerns about a crack appearing were raised with UKI before the repairs had been completed. But UKI has said the crack damage was present when the claim was originally made – and so, wasn't new. It also said Mrs L agreed the repairs had been completed to her satisfaction.

It's not clear from the evidence whether the crack damage was "overlooked" by UKI during the repairs, or whether it was a new crack which came to light towards the end of the repairs. But either way, the crack remains an issue, and one which needed to be looked into further by UKI.

UKI has agreed to review the crack damage and has said it's actively dealing with the matter. I consider this to be a reasonable course of action in the circumstances. Following this, UKI will need to share its findings with Mrs L. In deciding the next steps, UKI must keep in mind that it has to provide a lasting and effective repair.

Independent survey and underpinning

UKI's responsibility under the policy is to repair the damage to Mrs L's property caused by subsidence. To do this, the implicated vegetation was removed, the defective drainpipes were fixed, and superstructures repairs were carried out. But Mrs L says this is insufficient.

I take on board Mrs L's point that as her house has previously suffered from subsidence, she is concerned about it reoccurring and so, she considers underpinning to be the most appropriate stabilising solution. But, based on the evidence I have, I'm not persuaded it's been shown the mitigation works carried out by UKI weren't reasonable or that they won't provide a lasting and effective repair. I say this for a few reasons.

First, having carried out ground investigations which included trial pits, bore holes, drain CCTV surveys, and an arborist opinion on the cause of the damage, UKI's surveyor concluded the damage was caused by a root exacerbated clay shrinkage problem. And based on these investigations, the implicated vegetation was removed.

I haven't seen any reference to the property needing to be underpinned in the surveyor's findings. And when I weigh Mrs L's opinion up (that it does need to be underpinned) with UKI's expert's findings, I'm persuaded it was reasonable for UKI to rely on the latter to decide removal of the implicated vegetation together with superstructure repairs would stabilise the property.

Second, whilst I note there has been a previous subsidence claim, the first was attributed to an escape of water from a "damaged pipe", whereas the current episode was said to have been caused by a "*root exacerbated clay shrinkage problem*" – with UKI explicitly saying problems with the foul water drain weren't the primary cause. So, I'm not persuaded the existence of previous subsidence means UKI's mitigation measures - in dealing with the current movement - were unreasonable in the particular circumstances.

I also have to keep in mind that whilst I expect UKI to stop the current movement, it isn't responsible for making sure Mrs L's property never moves again. But it does need to make sure that any repairs carried out are lasting and effective. So, if Mrs L continues to experience problems, I'd expect UKI to deal with these issues in line with this Service's approach to lasting and effective repairs.

For the reasons above, I won't be directing UKI to underpin Mrs L's property or cover the cost of obtaining an independent surveyor's report.

Increase in premiums

Mrs L has said her premiums have increased. This wasn't addressed by UKI as part of its final response in May 2023, and I can't see that it featured in Mrs L's letter of complaint to UKI in February 2023.

If Mrs L remains unhappy about her premiums, she'd first need to make a complaint to UKI before this Service can become involved. So, I won't be commenting on this matter further.

Compensation

UKI has said it told its agent in February 2023 the crack needed to be reviewed, but that the agent didn't action this, and so, an avoidable delay was caused. Understandably, being asked for photographic evidence in May 2023 caused Mrs L unnecessary frustration. Our Investigator said UKI should pay £100 to reflect the impact of this on Mrs L.

As I can only consider events up until the May 2023 FRL, I'm satisfied £100 reasonably reflects the impact this delay caused Mrs L during this particular period.

UKI has confirmed that it's already paid the £200 compensation offered in its May FRL. And so, I'm directing it to pay an additional £100.

My final decision

My final decision is I uphold this complaint and direct UKI to:

- pay Mrs L £100 compensation
- review the crack damage and share its findings with Mrs L.

UKI must pay the compensation within 28 days of the date on which we tell is Mrs L accepts my final decision. If it pays later than this, it must also pay interest on the compensation from the deadline date for settlement to the date of payment at 8% a year simple.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs L to accept or reject my decision before 5 June 2024.

Nicola Beakhust
Ombudsman