

The complaint

Mrs S complains that U K Insurance Limited trading as Direct Line (UKI) delayed in attending to her tenant's home emergency. Mrs S wants UKI to reimburse the amount she paid her tenants for their spoiled freezer food.

Where I've referred to UKI, this also includes any actions or correspondence by agents acting on UKI's behalf.

What happened

Mrs S has a landlord insurance policy underwritten by UKI for a home she lets out to tenants, it also includes home emergency cover.

There was a water leak at the let property which had potentially damaged the electrics, so UKI were contacted by the tenant for home emergency assistance. This was reported on 28 December 2022 but UKI's electrician and plumber didn't attend until 31 December 2022. The tenant stayed in a hotel for a night in the interim which the policy covered the cost of.

As a result of the time UKI took to attend, Mrs S says the tenant's frozen food was spoiled so she gave them £270 to cover the cost of this. Mrs S wants UKI to reimburse her this cost as she says it was only incurred because UKI failed to provide the service she paid for under her policy.

UKI acknowledged there was a delay in appointing a contractor, but they didn't agree to reimburse the £270. Instead, they offered £60 compensation. As Mrs S remained unhappy, she approached this service.

One of our investigators looked into things but she didn't uphold the complaint. She said the delay in attendance was due to the availability of contractors and outside UKI's control. And she said that even if they could have attended sooner, the electrics may have needed time to dry so the food may have spoiled in any event. The investigator also noted that the tenants' contents insurance could have covered the freezer food, rather than Mrs S paying them for this.

Mrs S didn't agree and asked for a final decision from an ombudsman.

I was minded to reach the same overall outcome as our investigator, but for some different reasons. So, I issued a provisional decision, to give both parties an opportunity to comment on my initial findings before I reached my final decision.

What I provisionally decided – and why

In my provisional decision, I said:

“I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

I’ve reached the same overall outcome as our investigator, but there are some different reasons for this. So, I’m issuing a provisional decision, to give both parties an opportunity to comment on my initial findings before I reach my final decision.

It isn’t in dispute that UKI took longer to attend than they would have expected to. They explained that this was due to an unprecedented number of calls, and as the claim was made in the Christmas and New Year holiday period, this meant there was a limited availability of contractors.

UKI covered the cost of hotel accommodation for the tenant when it became clear things were going to take longer than initially expected. This is something the policy provides cover for.

But Mrs S says that due to the delays, the tenant’s frozen food was spoiled, so she paid them £270 for this. Mrs S says that she only paid this to the tenant because UKI failed to provide the service she pays for as part of her contract, and this resulted in the food being spoiled. Therefore, she says UKI should reimburse her this cost. However, I don’t agree. I’ll explain why.

The terms of Mrs S’ policy confirm that UKI’s agent will provide a 24-hour emergency assistance telephone service, seven days a week, 365 days a year. And they will provide assistance, covering call out charges and labour, for emergencies such as leaks or electrical failure. This is what UKI did and provided. But UKI don’t guarantee attendance or repairs will be carried out within a certain time period in the policy terms. They may have service level agreements which they work towards, but it isn’t a contractual guarantee to attend and resolve within a set timescale within the terms of the policy. So, whilst Mrs S says UKI failed to fulfil a contractual part of her policy, the policy provides a 24-hour phone assistance, and covering the cost of callouts and labour and UKI has fulfilled that part of the contract and their obligations.

UKI accepts it took longer than they would have expected, but this was due to the time of the year, volume of calls and availability of contractors. The policy terms say:

*“Circumstances beyond (UKI’s agent’s) control
(UKI’s agent) will make every effort to provide the service at all times, but
(UKI’s agent) will not be responsible for any liability arising from their inability
to provide assistance as a result of circumstances beyond their control.”*

Along with not guaranteeing a time period for attendance and repairs, the terms also outline there may be times when UKI can’t provide the service which are outside their control, and they wouldn’t be responsible for any liability arising from that. Contractors were sent when available, and whilst this was longer than UKI ordinarily would have expected, I’m satisfied that was outside their control, and doesn’t equate to a failure to provide part of the contract as Mrs S alleges.

UKI wasn't responsible for the power being turned off in the first instance, which resulted in the freezer being without power. I also note that the tenant had contents insurance which they may have been able to claim under for the freezer food. Instead, Mrs S decided to pay her tenants £270 as she didn't think they should have to claim (with a £200 excess) for what she says was UKI's failure to deliver their contractual obligations which she pays for.

However, I don't agree that UKI has failed to deliver its contractual obligations, for the reasons explained. And I'm satisfied the delay in being able to appoint a contractor was outside UKI's control and they appointed someone as soon as they could. So, unless anything changes as a result of the responses to my provisional decision, I won't be directing UKI to reimburse Mrs S £270 for freezer food that she paid to her tenant.

It was Mrs S' tenants who were without power and would have been inconvenienced most by this. However, they aren't the policyholder (Mrs S is) and aren't an eligible complainant here, so I can't award them compensation directly. But UKI has offered Mrs S £60 compensation for delays and needing to contact them, and I think that's fair for the inconvenience to Mrs S directly. So, unless anything changes as a result of the responses to my provisional decision, I won't be directing UKI to increase this."

So, I wasn't minded to direct UKI to do anything further as I thought the compensation they had already offered was reasonable.

The responses to my provisional decision

UKI responded and said they had nothing further to add.

Mrs S didn't respond to the provisional decision by the deadline.

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.

And I've thought carefully about the provisional decision I reached. Having done so, and as neither party has provided anything which would lead me to depart from my provisional decision, my final decision remains the same as my provisional decision, and for the same reasons.

My final decision

U K Insurance Limited trading as Direct Line has already made an offer to pay £60 compensation to settle the complaint and I think this offer is fair in all the circumstances.

So, my decision is that U K Insurance Limited trading as Direct Line should pay the £60 compensation already offered, if it hasn't already done so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 6 February 2024.

Callum Milne
Ombudsman