

## **The complaint**

Mr and Mrs B complain UK Insurance Limited (UKI) handled unfairly and declined a claim they made on their home insurance policy for damage caused by a fire.

## **What happened**

In 2020, Mr and Mrs B's neighbours lit a fire to burn sofas, mattresses and other materials on the land adjoining Mr and Mrs B's home. Mr and Mrs B say as a result, their home was engulfed in black smoke. They made a claim to UKI as they said their home had been damaged by the smoke.

UKI reviewed the claim but ultimately declined it in summer 2021. It didn't think Mr and Mrs B had taken reasonable care to prevent damage, by ignoring the fire brigade's advice to close all of the windows in the property. UKI also said repairs were carried out, and items disposed of, before proper inspection of the property took place by UKI, which had prejudiced its position. It was also concerned that Mr and Mrs B had submitted a quote for repairs to the property at £104,000 which hadn't been substantiated as claim related repairs.

In 2023, Mr and Mrs B complained to UKI about the declined claim. They said asbestos testing was agreed but not carried out, the loss adjuster conducted himself poorly when attending their property and they were unhappy that various suppliers had attended their home during the covid-19 pandemic when there were restrictions on visitors inside homes.

UKI responded to their complaint but didn't agree to change its position on the claim, and it didn't agree it had acted improperly in its handling. So Mr and Mrs B brought a complaint to the Financial Ombudsman Service. Our Investigator thought UKI had acted fairly and reasonably in declining the claim. He thought there were a number of instances where Mr and Mrs B hadn't followed the policy terms, so it was fair for it not to pay the claim.

In response to the Investigator's view Mr and Mrs B said by the time the fire brigade arrived and advised them to close the windows, there was already significant smoke damage to the property. They said the windows had been open as it was a hot day and during the covid-19 pandemic, when the government were advising to keep windows open to provide good ventilation. They said they were not seeking to benefit from the fire and felt very let down by UKI.

Mr and Mrs B asked for an Ombudsman to consider their complaint again, so the matter has come 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.

As this is an informal service, I'm not going to respond here to every point or piece of evidence Mr and Mrs B and UKI have provided. Instead, I've focused on those I consider to be key to determining the complaint. But I would like to assure all parties I have considered everything provided.

It is not in dispute that Mr and Mrs B's home suffered damage that would, on the face of it, be covered by the policy. But UKI relied on various policy conditions not being met as a reason to decline the claim and not pay any part of it.

The main policy condition it's relying on is that Mr and Mrs B didn't take reasonable care to prevent damage to their property. UKI's argument is that the fire was in adjoining land around 30 metres away from the property, and the smoke could have largely been prevented from entering the property by closing all of the doors and windows. It said Mr and Mrs B were aware of the fire at around 9pm on the night in question, with the Fire Service attending around half an hour later. It said there was sufficient opportunity to close the windows in the intervening time period, especially considering Mr and Mrs B were accompanied by four other adults at the time of the incident. And it said Mr and Mrs B's failure to take this reasonable action resulted in a loss that could have been prevented.

Mr and Mrs B say there wasn't an opportunity to close the windows earlier, because they were concerned that the trees very close to their property might catch fire, so they were taking action, such as wetting the trees, to prevent more damage. They said whilst there were a number of adults, not all were capable of helping. They said by the time the Fire Service told them to go inside and close the windows the property was too consumed with smoke to enable safe entry.

Where there is a difference of opinion such as this, my role is to decide who I am more persuaded by, on the balance of probabilities. And having carefully considered all of the arguments from both sides, I'm more persuaded that UKI made a reasonable decision to say Mr and Mrs B didn't meet the policy condition of taking reasonable care to prevent loss or damage to the property.

The reasonable care 'test' is that Mr and Mrs B recognised a risk of loss or damage and didn't do enough to prevent it. I think that applies here because, by wetting the trees, it shows Mr and Mrs B were aware the fire presented a risk, but that wasn't enough to protect their property because they didn't take action to shut the windows and doors.

Whilst Mr and Mrs B might have been outside when the fire started, I think a reasonable course of action, if smoke is entering a property from an external fire, would be to close any windows and doors to prevent smoke entering the property. I'm not persuaded that the evidence shows the fire was so severe and close to their home that they needed to remain outside for the entire period before the fire service arrived to deal with it. I also consider the Fire Service to be the experts in fire safety. Everything I've seen suggests Mr and Mrs B were told by the fire service that they should go indoors and close windows and doors, and even at this point, this wasn't done.

I've noted Mr and Mrs B's comments that it would have been unsafe to enter the property to close the windows. UKI has said a photograph provided from the night of the fire was taken from inside of the property, by one of the adults, around the time the Fire Service did attend. This, coupled with the comments from the Fire Service that it deemed the property safe to enter, means I'm not persuaded Mr and Mrs B wouldn't have had an opportunity to act to prevent damage.

So I'm satisfied Mr and Mrs B didn't meet the policy condition of taking reasonable care to prevent loss or damage. And UKI has shown that this is material to the claim and prejudiced its position given the claim was for damage to the property caused by smoke. In this scenario the policy allows UKI to decline the claim in full or not pay all of the claim. UKI decided not to pay any of the claim. Having considered all of the evidence I consider this to be a reasonable position for it to take.

I say this as I'm persuaded by UKI's argument that other policy conditions weren't met in addition to the one above. UKI said Mr and Mrs B disposed of items and carried out cleaning and redecoration works without authorisation from UKI and before it had an opportunity to inspect the damaged items or property. For example, UKI says the fire was closest to a

summer house and garage at Mr and Mrs B's address, but there was minimal damage noted to these areas when UKI assessed them. So UKI was concerned that the claim for the damage to the house was so large when these buildings closer to the fire seemed to suffer minimal damage. Mr and Mrs B said they'd already redecorated the garage themselves to cover up the fire damage. It was the view of UKI's loss adjuster that the external walls of the garage looked clean but not obviously freshly decorated. And this had been done without UKI's knowledge or consent.

UKI noted further examples of this, such as a claim for multiple electrical items that were disposed of around a week after UKI said it told Mr and Mrs B it would need to do a forensic examination of the property. It also said Mr and Mrs B had confirmed only very limited professional cleaning had been carried out, but shortly after provided an invoice for more extensive cleaning, without a reasonable explanation for the change in this element of the claim. UKI says all of this led to it being unable to properly validate any of the claim, so it declined it.

Mr and Mrs B have said they've never tried to exaggerate the claim, That may be the case – and UKI hasn't declined the claim on grounds of fraud. Nevertheless I don't consider they've given reasonable explanations to UKI's concerns outlined above and that has meant, in my view, that UKI can't reasonably validate their loss. So on balance I think UKI made a reasonable decision not to pay any of the claim, based on the breach of more than one policy term.

Mr and Mrs B have said UKI took a long time to decline the claim, I accept that it did take a number of months to investigate its concerns. UKI first became concerned when Mr and Mrs B submitted a quote for over £100,000 for the reinstatement works from their own contractor, shortly after the fire. Given the large claim value, I don't consider it unreasonable that UKI wanted to make further enquiries on this. And whilst it did take a number of months to assess matters, I'm satisfied that by October 2020, around four months after the fire, UKI set out its intention to do more forensic testing. Ultimately it didn't go ahead with that due to other concerns and works already having been started by Mr and Mrs B. And whilst the claim wasn't formally declined until 2021, overall, given UKI's concerns, I don't think it acted unreasonably or caused avoidable delays in the process.

Mr and Mrs B said they were concerned about carbon damage to the home and asbestos contamination. I can understand the concern, they felt strongly that the neighbours had been burning asbestos materials. But the fire report notes that no asbestos had been found in the fire, and Mr and Mrs B's property was always considered low risk of asbestos contamination from the outset. In any event, ultimately, as I consider UKI has acted reasonably in declining the claim, it follows I also don't think it's unreasonable it didn't carry out the asbestos testing.

I've considered Mr and Mrs B's comments about the loss adjuster acting poorly when at their home but given the length of time that has passed since those visits, in 2020, and when the complaint was made in 2023, it is difficult to place much weight on their testimony. I can't see from UKI's file that any concerns were raised about it at the time, and Mr and Mrs B haven't provided much detail on this point. So I'm not persuaded it's been shown Mr and Mrs B were treated unfairly and that has led to an unfair outcome on their claim.

Mr and Mrs B said various suppliers attending their property during the covid-19 lockdown was a concern to them. I think that was a reasonable concern, but I'm mindful that they did have their own contractors in attendance for cleaning and decorating during that period. And I haven't seen any evidence that UKI's suppliers acted in any way that would have contravened any lockdown guidance at the time. I also consider overall that it was reasonable for it to make further enquiries. So whilst it may have been a concern for Mr and Mrs B, I'm not satisfied this means UKI acted unfairly or improperly in any way.

**My final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B and Mr B to accept or reject my decision before 15 May 2024.

Michelle Henderson  
**Ombudsman**