

The complaint

Mrs W complains that U K Insurance Limited (“UKI”) mishandled a claim on her motor insurance policy.

What happened

The subject matter of the claim and the complaint was a hatchback car, first registered in 2011.

For the year from early June 2021, Mrs W had the car insured on a comprehensive policy. UKI was the insurer that was responsible for dealing with any claim.

Unfortunately, during a storm in late November 2021, a chimney pot fell off a neighbouring house onto the car.

UKI paid Mrs W its pre-accident valuation of the car, less an excess of £350.00.

Mrs W complained that UKI recorded a “fault” claim and didn’t refund the excess.

By a final response dated mid-October 2022, UKI turned down the complaint.

Mrs W brought her complaint to us in late January or early February 2023.

Our investigator didn’t recommend that the complaint should be upheld. She thought that UKI had acted fairly.

Mrs W disagreed with the investigator’s opinion. She asked for an ombudsman to review the complaint. She says, in summary, that:

- A private landlord owned the neighbouring house. She had to contact the agent.
- She lives next door, so she knows the house hadn’t been maintained. It was vacant for a long time.
- Bits of the roof were continually falling down on her path. Even when the weather conditions were normal, bits of the front of the dormer still fell away.
- The weather conditions were adverse at the time of her claim, but a well- maintained roof should withstand this.
- No other chimney pots in the area came off.
- UKI asked her to get evidence that the roof was not maintained. She provided it. They ignored it. UKI didn’t seriously consider any of her evidence.
- The roofer lied about water ingress through the window. This was disregarded too.
- The new owner moved in in January 2022. They confirmed there was no water ingress through the windows.
- UKI did not keep her informed about the situation, and only got back to her when she

phoned or emailed them.

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.

Any claim – and especially a fault claim – is likely to increase the policyholder's premium from the following year.

It was a term of the policy that Mrs W would pay the first £350.00 of any claim. So that would be an uninsured loss.

Where a motor insurer has made an outlay on a claim, it's common practice for the insurer to treat that claim as a "fault" claim against its policyholder unless and until the insurer recovers its outlay in full. So a fault claim doesn't necessarily mean that the policyholder has done anything wrong.

Most motor insurance policies contain a term allowing the insurer to decide how best to deal with a potential claim against a third party. UKI's policy terms included the following:

"When we can act on your behalf

We're entitled to do either of the following:

- *Take over and carry out the negotiation, defence or settlement of any claim in your name, or in the name of any other person covered by this policy.*
- *Start legal proceedings in your name, or in the name of any other person connected to this policy. This can be for your benefit or our own benefit."*

In my view, that meant that – in relation to a potential claim against a third party – UKI's view would prevail over Mrs W's view. I will consider whether UKI applied that term fairly.

Mrs W gathered evidence of lack of care by the landlord of the neighbouring house.

I don't consider that Mrs W is correct in saying that UKI ignored the evidence. From what I've seen, UKI considered the evidence and the prospects of successfully recovering its outlay by making a claim against the landlord (or their insurer).

UKI decided that the prospects of success through litigation didn't justify the costs and risk involved. So it decided not to pursue a claim for reimbursement of its outlay. I consider that UKI's decision was reasonable in the circumstances and not unfair to Mrs W.

I don't consider that UKI had to help Mrs W recover the excess from the landlord. It remains open to her to pursue a claim against the landlord.

Whilst I agree that the situation was no fault of Mrs W's, I don't find it fair and reasonable to direct UKI to change the way it has recorded the claim or to refund the excess.

I accept that there were times when UKI didn't communicate with Mrs W as well as it should've done. However, Mrs W's complaint form included the following:

"I am not asking for compensation for the stress, time and frustration involved just the 'fault' to come off my insurance and the £350 refunded to me."

In any event, I don't consider that the shortcoming in UKI's communication caused Mrs W distress and inconvenience at a level that called for financial compensation.

My final decision

For the reasons I've explained, my final decision is that I don't uphold this complaint. I don't direct U K Insurance Limited to do any more in response to this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 11 August 2023.

Christopher Gilbert

Ombudsman