

The complaint

Mr and Mrs C are unhappy with the amount Zurich Insurance plc ("Zurich") has offered them towards their costs following damage they say was caused to their property by Zurich whilst it carried out repairs in connection with a claim.

What happened

Mr and Mrs C's home was damaged by a storm in March 2020. Zurich accepted Mr and Mrs C's claim for storm damage and arranged for its contractor (M) to carry out repairs to their property. Mr and Mrs C say the repairs were completed in June 2020.

Mr and Mrs C say that the scaffolding installed by M over their conservatory to facilitate the repairs damaged their property. Mr and Mrs C say that once the scaffolding had been dismantled, water began to ingress into their conservatory.

Zurich note Mr C reported the damage in August 2020. Zurich say it repaired damage to Mr and Mrs C's conservatory blinds but said the conservatory roof had been damaged by wear and tear and not by its agent.

Zurich say that in November 2020 Mr C called it to advise that snagging from the storm repairs still hadn't been addressed. Mr and Mrs C say they became frustrated because - not only did they want the snagging corrected – they also wanted Zurich to assess the damage they said had been caused to their conservatory roof by the scaffold. Mr and Mrs C say appointments were made with Zurich's agents to inspect the damage, but no-one arrived.

Around a month or so later, Mr and Mrs C complained. Zurich's final response in February 2021 was to offer Mr and Mrs C £350 compensation and arrange for a different contractor (D) to inspect the damage. Mr and Mrs C responded that they were happy with what Zurich had determined. The inspection took place on 16 February 2020.

D's report concluded that most of damage it'd seen hadn't been caused by the scaffold. It said the water ingress had been caused by an end cap on the conservatory working itself loose because silicone sealant had perished. But it did say that the damage to the edges of Mr and Mrs C's conservatory roof panels may have been caused by the scaffold. Mr and Mrs C brought their complaint to us because they were unhappy with the findings of this report and felt the scaffold had damaged more than just their roof panels.

Zurich issued a further final response to Mr and Mrs C on 29 April 2021. It said it would rectify the issues with the roof panels and offered Mr and Mrs C a further £350 compensation. It also said it'd consider any independent report Mr and Mrs C may want to provide.

In June 2021, Mr and Mrs C employed their own contractor to carry out work to rectify the issues with their conservatory roof.

At the beginning of July 2021, Mr and Mrs C sent us a copy of their own expert's report. Mr and Mrs C felt the report concluded that the damage to their roof as well as their guttering had been caused by the scaffold. Mr and Mrs C provided us with a copy of the receipt for the cost of their report and an invoice for the work they'd paid for, which the invoice noted as work to their "guttering" and "other work".

Our investigator's view was that Zurich should cover 50% of what Mr and Mrs C had paid to repair the damage. She said this was fair because both Zurich's and Mr and Mrs C's reports mentioned two possible causes for the damage - the scaffold and wear and tear – and it's difficult to attribute the damage to a particular cause. Our investigator also said Zurich should pay Mr and Mrs C half of what their expert's report cost them and that the £350 compensation Zurich had offered Mr and Mrs C was fair.

Mr and Mrs C disagreed with the view. They said Zurich should pay 100% of their costs and compensation for the missed appointments and the time they'd had to spend speaking to builders about the cause of the problem. Mr and Mrs C asked for an ombudsman's decision.

Zurich responded noting that neither its own nor Mr and Mrs C's report said the damage to the guttering was caused by the scaffold, so it felt it should only cover cost of the damage to the roof panels. But despite our investigator's award, Zurich said that the roof panels may have been more expensive than the guttering and offered instead to pay 70% of Mr and Mrs C's costs rather than 50%.

Mr and Mrs C then said they'd be prepared to accept Zurich's offer of 70% of their costs. They also said they'd be prepared to accept the £350 further compensation Zurich had offered as well as 50% of the cost of their expert's report.

Our investigator relayed what Mr and Mrs C were prepared to accept to Zurich. Zurich said it was still willing to pay 70% of Mr and Mrs C's costs and the further £350 compensation, but nothing towards the cost of Mr C's report because the report hadn't presented any new information and didn't change its stance. It also said the addition of interest to the 70% contribution wouldn't be appropriate.

Mr and Mrs C were unhappy with this because they felt Zurich should pay the interest and 50% of their report costs. They asked again for an ombudsman's decision.

After I'd considered all the available evidence to decide what's fair and reasonable in the circumstances of this complaint, I reached a different outcome to our investigator. Because the outcome was different, I issued a provisional decision giving both parties a further chance to comment on my findings ahead of issuing my final decision.

My provisional decision

I explained my provisional findings to both parties as follows:

Cause of damage

Both Zurich and Mr and Mrs C provided expert reports on the cause of the damage to Mr and Mrs C's roof. Mr and Mrs C's report notes that the roof panels "have been damaged" but doesn't say the guttering has also been damaged. Instead, Mr and Mrs C's report recommends correcting the guttering's back falls and the installing additional brackets, down pipes and a stop end. None of which appear to be repairs to correct damage caused by a scaffold. So, I can't say on balance Mr and Mrs C's guttering was damaged by the scaffold and that it should be paid for by Zurich. So I think it's fair and reasonable that Zurich only cover the damage to Mr and Mrs C's roof panels.

Mr and Mrs C's report costs

On 29 April 2021, Zurich wrote to Mr and Mrs C saying it would rectify the issues with their roof panels. It also said it would consider any expert report Mr and Mrs C wanted to provide. Zurich made this offer before it had been able to review Mr and Mrs C's expert report, which was provided to Zurich after the complaint had been brought to us.

Mr and Mrs C's report didn't note any damage that could be attributed to the scaffold that Zurich hadn't already identified and had already offered to pay for. So I don't think it would be fair for me to ask Zurich to contribute to the cost of Mr and Mrs C's report because their report didn't cause Zurich to change its stance and I think is reasonable – given Mr and Mrs C's report - that Zurich didn't change its stance.

Interest on Zurich's increased award

Zurich increased its offer to 70% of Mr and Mrs C's costs, so £770. It said the increase was to reflect that fixing the roof panels may possibly have cost more than 50% of Mr and Mrs C's costs, even though it wasn't clear from Mr and Mrs C's invoice how much they'd paid for just the roof panels. Zurich didn't say why it wouldn't be appropriate to pay interest on this amount.

I appreciate Zurich offered to repair the panels in its FRL of 29 April 2021. But despite this – and given the issues Mr and Mrs C had experienced previously with Zurich's agents not arriving when they said they would - I don't think it's unreasonable for Mr and Mrs C to instead have made their own arrangements to fix the panels.

It's unfortunate that Mr and Mrs C's invoice wasn't itemised. But if Zurich had provided the service I'd have expected it to after Mr C first reported the damage, Mr and Mrs C most likely wouldn't have felt they needed to undertake the repairs themselves. And so wouldn't have needed an invoice to show what they'd spent on the roof panels. Because of this - and because Zurich said it thought it should pay for the roof panels and that they'd cost 70% of Mr and Mrs C's costs (£770) - I think it's fair and reasonable that Zurich also pays interest on this amount.

Compensation

Mr and Mrs C told us they were willing to accept Zurich's offer of a second compensation payment of £350 for their distress and inconvenience. I think payment of the additional £350 Zurich has offered Mr and Mrs C is fair and reasonable given their trouble and upset since February 2020 when Zurich issued its final response to their first complaint.

Conclusion

I'm minded to uphold Mr and Mrs C's complaint. I think it's fair and reasonable that Zurich pay Mr and Mrs C the further £350 it has offered them. And I think it's fair and reasonable that Zurich pay Mr and Mrs C £770 towards their costs plus 8% simple interest on this amount from the date of Mr and Mrs C's invoice.

Responses to my provisional decision

Mr and Mrs C's said Zurich had taken photos of their conservatory as part of its assessment of the storm damage. They asked that I review these photos as they would show the state of the conservatory before the scaffold was erected. They said the surveyor who'd assessed the storm damage had at no time suggested there was any damage other than that caused by the storm.

Mr and Mrs C also said the only damage there'd been since the guttering was pushed back into place had been below it. As well, they said there'd been no damage that would correspond to a missing end cap. They also said that some of the repaired damage had returned.

Zurich said it hadn't been aware Mr and Mrs C had carried out repairs until we'd told it they had. It said that, because Mr and Mrs C said they wouldn't accept anything less than 100% of their costs, it didn't want to inflame the situation by sending 70% of their costs to them sooner.

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 considered the responses of both parties to my provisional decision.

I've reviewed the photographs taken of the damage following the storm before the scaffold was erected. But the photos only show part of the guttering. And because I can't see more of the guttering, I can't say on balance that the guttering was in a good condition after the storm and before the scaffold had been erected. So I'm not persuaded to depart from my provisional finding that it's fair and reasonable for Zurich to only cover the cost of the roof panels and not the guttering.

Mr and Mrs C's response mentioned damage that occurred after the guttering had been pushed back into place. They said that some of the repaired damage had returned. In the first instance, Mr and Mrs C would need to contact Zurich about any further damage they've seen. They would subsequently then be free to raise the matter with this service if they find themselves unhappy with Zurich's response.

Zurich say it didn't pay 70% of Mr and Mrs C's costs to them sooner because it didn't want to inflame the situation. In my provisional decision, I'd said that it wasn't unreasonable for Mr and Mrs C to have made their own arrangements to fix and pay for the panels themselves. And if Zurich had provided the service I'd have expected it to when Mr C first reported the damage, Mrs and Mrs C most likely wouldn't have felt they needed to make their own arrangements and complain. So I'm not persuaded to depart from my provisional finding that Zurich should pay interest from the date of Mr and Mrs C's invoice.

So, for the reasons outlined above, I see no reason to depart from my provisional findings and I've decided to uphold Mr and Mrs C's complaint in line with my provisional decision.

My final decision

I uphold Mr and Mrs C's complaint.

I require Zurich Insurance plc to pay Mr and Mrs C £770 plus 8% interest from the 30 June 2021, which is the date of their invoice for repairs. If Zurich Insurance plc considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr and Mrs C how much it's taken off. It should also give Mr and Mrs C a certificate showing this if they ask for one, so they can reclaim the tax from HM Revenue & Customs if appropriate.

I also require Zurich Insurance plc to pay the additional £350 compensation it has already offered to pay them. Zurich Insurance plc must pay the compensation within 28 days of the date on which we tell it Mr and Mrs C accept my final decision. If it pays later than this it 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 Mrs C and Mr C to accept or reject my decision before 18 August 2022.

Ruth Peek
Ombudsman