

The complaint

Mr S and Mrs S complain about the service they got from, and about the standard of the repairs carried out by, Tesco Underwriting Limited following a claim on their buildings insurance policy.

When I refer to “Tesco” in this decision, I’m also including the agents it instructed in connection with Mr S and Mrs S’s claim.

What happened

In October 2019, Mr S and Mrs S’s washing machine leaked, causing water damage to a number of rooms in their home. So they made a claim on their buildings insurance policy, which Tesco accepted.

The sequence of events in Mr S and Mrs S’s claim is long and complicated. The details are well known to both Mr S and Mrs S and Tesco, so I’ll refer to what I think are the key issues and events here.

Mr S and Mrs S, both of whom are in their later years, have told us Mrs S is severely disabled and walks with the aid of a frame. They’ve said Mrs S has a number of health problems, including one that means she has to access facilities very frequently by walking through her home. And they’ve also said Mr S has health issues that affect his mobility.

Immediately after Mr S and Mrs S made their claim, Tesco arranged for drying out work to be done in some of the rooms affected by water damage. Drying out was completed by 6 November 2019. But at the beginning of February 2020, Mr S and Mrs S complained to Tesco saying the repairs hadn’t started and the delay was unacceptable. Later in February, Tesco carried out the repairs.

A few weeks later, in March 2020, Mr S and Mrs S complained to Tesco again. They said the underlay in their lounge hadn’t been removed as part of the repairs and a damp proof membrane hadn’t been installed – both of which they say Tesco had told them would be done. Tesco offered Mr S and Mrs S £200 to replace the underlay and £50 for the poor service Mr S and Mrs S felt they’d had. Mr S and Mrs S accepted this offer.

Towards the end of May 2020, Mr S and Mrs S complained to us and Tesco about the issues they’d already had (as I’ve outlined them above). They also complained about the standard of the repairs Tesco had carried out. They said the flooring at the edges of their kitchen and utility room was flaking and the refitted lounge floor was starting to twist and walking on it was “*like walking on ... a trampoline*”. They say these things made the flooring particularly unsafe for them to walk on, given Mrs S’s disabilities and their other health problems.

Tesco agreed to replace the flaking flooring in the kitchen and utility room. But it said it needed to investigate what had happened with the flooring in the lounge. This was so it could decide if the problem there was to do with the leak Mr S and Mrs S were claiming for or to do with rising damp. If rising damp was the problem, Mr S and Mrs S’s policy wouldn’t

have covered them, because it had an exclusion for damage caused gradually over a period of time.

Tesco carried out its investigations from May 2020 until the middle of September 2020. Mr S says these investigations included taking up a section of the flooring opposite the kitchen door. He says Tesco placed a piece of thick cardboard over an area of around one square metre and put tape around it to keep it in place. At the beginning of September 2020, while walking over it with her wheeled frame, Mr S says Mrs S fell over. She was taken to hospital and discharged with a knee brace that Mr S says Mrs S wore for five weeks.

At the end of its investigations, Tesco got an expert's report saying the problem with the lounge flooring was rising damp (something Mr S and Mrs S dispute). So Tesco said the damage wasn't covered by their policy. But, because of its delay in identifying the cause of the damp and because Mrs S had injured herself on the uneven flooring, Tesco paid Mr S and Mrs S a cash settlement of £1,068.98 to cover the cost of replacing the lounge flooring, including installing a damp proof membrane.

Following the cash settlement, Mr S says in November 2020 a family member replaced the flooring, the underlay and the sheet of plastic that had been placed on it in place of a damp proof membrane.

Mr S and Mrs S would like Tesco to pay them £300 for the cost of this work. They would also like compensation from Tesco for the mental and physical strain its handling of their claim has caused them and for the pain and suffering Mrs S has experienced from the fall.

The investigator who looked at Mr S and Mrs S's complaint didn't uphold it. He thought that, while Tesco had caused Mr S and Mrs S a lot of distress and inconvenience, its offer to compensate them for this was fair. He also thought it was fair for Tesco to rely on its expert's report that the lounge flooring was affected by rising damp but that its cash settlement was reasonable, given the time it had taken Tesco to identify the problem and because of Mrs S's fall.

Mr S and Mrs S disagreed and asked for an ombudsman to decide their complaint. In my provisional decision of 2 March 2022, I explained why I intended to uphold Mr S and Mrs S's complaint and award them £1,500 for the distress and inconvenience and pain and suffering Tesco caused them in its handling of their claim.

Mr S and Mrs S have given me some comments on my provisional decision. Tesco has said it has nothing to add. So Mr S and Mrs S's complaint 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.

For the reasons I gave in my provisional decision, and which now form part of this final decision, I uphold Mr S and Mrs S's complaint. In that decision, I explained why I've come to that view, as follows:

"Mr S and Mrs S's vulnerabilities were well known to Tesco almost from the start of their claim. And yet I can see little evidence Tesco took adequate steps to help mitigate them, which I would've expected it to do here.

Mrs S has described living conditions in the four-month period before the repairs were completed. Among other things, she says a strip of laminate floor had been removed and

there were “strips of pointed laminate at all angles sticking out and trip up ... hazards all across the floor and not enough space to walk in with my feet in the centre section and my wheels of the zimmer frame on the laminate that was left down”.

In Mr S and Mrs S’s particular circumstances, I think Tesco should’ve given them the option to move into alternative accommodation while the drying out and repair works were carried out in their home. And I think it should’ve explained to them it was possible for alternative accommodation to be found that would be suitable for their needs.

I’ve seen no evidence Tesco did these things. From what Mr S and Mrs S say, one agent did mention the possibility of alternative accommodation during the drying out works. But I can’t see this option was fully and formally explored with Mr S and Mrs S. I think this was a significant failing on Tesco’s part. Had Mr S and Mrs S accepted alternative accommodation, having been given a clear choice about it, I think much of the distress and inconvenience they’ve suffered could’ve been avoided.

Tesco also hasn’t adequately explained the reasons for the delay in the start of the repairs. It says drying out work was needed and Mr S and Mrs S didn’t want the repairs started over the festive period. But the drying out certificate was signed by Tesco more than six weeks before this and the works weren’t started until nearly two months after it. Tesco’s own internal investigation notes acknowledge the delay in booking in a start date for them was, among other things, “concerning”.

During this time, Mr S was in regular contact with various agents of Tesco, trying to find out why the repairs weren’t being carried out. Call notes Tesco has sent us from this time (and subsequently during their claim) refer to Mr S’s unhappiness with the situation and his particular concerns about the impact of their living conditions on Mrs S, because of her disabilities and health problems.

When the repairs were done, from what Mr S and Mrs S say, they were unhappy from the start. They say they queried why the new flooring was being placed on old underlay (they say this hadn’t been dried out and they’d been told it would be removed). They say they also queried why a sheet of plastic was being placed on top of the underlay, rather than the damp proof membrane they say the loss adjuster had said was needed (and which Tesco’s drying out certificate also said was needed). They say Tesco’s agents simply said that’s what they’d been instructed to do. I think seeing repairs carried out that didn’t fit with what Mr S and Mrs S say Tesco had led them to expect must’ve been confusing and upsetting for them. And then, two months on, to find that the repairs weren’t holding out can only have added to their distress and inconvenience.

When an insurer chooses to settle a claim by repair, we expect it to indemnify the consumer by carrying out an effective and lasting repair. To be effective the repair must fully put right the damage. And to be lasting it must do so for an appropriate amount of time. From what I’ve seen so far in this complaint, the repairs Tesco carried out in February 2020 were not effective and lasting, as I’ve described above.

And, also from what I’ve seen, it wasn’t until May 2020 (more than six months after the washing machine leaked) that Tesco began to investigate a possible issue with rising damp. Given the nature of Mr S and Mrs S’s claim, I would’ve expected Tesco’s loss adjuster to have done this at the start of their claim – not after repairs had been carried out.

Over the next four months, extensive case notes show Tesco trying to establish with its various agents the cause of the problem with the lounge flooring. Often, Tesco got conflicting information from its agents. Ultimately, Tesco appointed a senior expert who concluded the problem was caused by rising damp. But, up until this point, it doesn’t seem to me either that

Tesco managed Mr S and Mrs S's claim efficiently or that it was mindful of the impact the long-drawn-out investigations were having on Mr S and Mrs S's lives.

It was as part of these investigations that a section of lounge flooring was cut out which, three months later, Mrs S fell over. I think Mrs S's fall flows directly from Tesco's protracted investigations into the cause of the problem with the lounge flooring. The fall undoubtedly caused Mrs S pain and suffering and Mr S anxiety. I've seen photos of Mrs S's bruised leg and knee and of the brace Mr S says she wore for five weeks. I think the fall must've made what was already a difficult time for Mr S and Mrs S even more difficult.

Tesco initially paid Mr S and Mrs S £200 for new underlay and £50 for the distress and inconvenience its poor service gave them. It has subsequently paid them, as a goodwill gesture, £1,068.98 to remove and dispose of the "old" floor and underlay, supply and fit a new floor and underlay and instal a damp proof membrane.

From what I've seen, and for the reasons I've given, I don't think the repairs Tesco carried out to the lounge floor were lasting and effective. So I think it was fair and reasonable for Tesco to make Mr S and Mrs S the cash settlement it did to replace it. But I don't think it would be fair and reasonable to ask Tesco to pay Mr S and Mrs S another £300 for their family member doing this work. That's because these costs were factored into Tesco's cash settlement offer.

But based on what I've seen so far, I think Tesco needs to do more to compensate Mr S and Mrs S for its overall failings in dealing with their claim. A claim that I think Mr S and Mrs S were entitled to expect would only run for a few months at most, ran for almost a year. From what Mr S and Mrs S have described (some of which I've outlined in this decision), Tesco's handling of their claim caused them substantial distress, upset and worry involving serious disruption to their daily lives over a sustained period. I say this especially bearing in mind Mrs S's disabilities and the various health problems both she and Mr S have.

Taking all of these factors into account, and based on what I've seen so far, it's my intention to award Mr S and Mrs S £1,500 for the distress and inconvenience and pain and suffering Tesco's handling of their claim has caused them. This is in addition to the payments Tesco has already made them of £50 for distress and inconvenience, £200 for new underlay and £1,068.98 for replacement lounge flooring."

As I said at the start of this decision, Tesco says it has nothing further to add to my provisional decision and has accepted it. Mr S and Mrs S think the award of £1,500 I said I intended to make to compensate them for Tesco's failings in handling their claim is "derisory". They've given me some detailed comments on some of the points I made in my provisional decision. And the relative who made the final repairs to the lounge flooring has also given us his views on the condition of Mr S and Mrs S's home generally because he's carried out works there over the years.

I'm grateful to Mr S and Mrs S for their comments. As I said in my provisional decision, the sequence of events in their claim is long and complicated. And I know my provisional decision didn't set out details of all of the many things that went wrong with their claim – rather, I highlighted what I thought were the key issues, events and difficulties Mr S and Mrs S experienced during the long time in which their claim was outstanding.

But I've carefully considered everything they've said throughout their complaint, including their comments on my provisional decision and the comments of their relative. And, as I said in my provisional decision, I think Tesco's handling of their claim caused Mr S and Mrs S substantial distress and inconvenience. Mr S and Mrs S's comments on my provisional

decision, and those of their relative, don't change my view that an award of £1,500 in compensation is fair and reasonable for that substantial distress and inconvenience, for the reasons I've set out.

My final decision

For the reasons given in my provisional decision, I uphold Mr S and Mrs S's complaint and direct Tesco Underwriting Limited to pay them £1,500 for the distress and inconvenience and pain and suffering it has caused them in its handling of their claim.

Tesco Underwriting Limited must pay the compensation within 28 days of the date on which we tell it Mr S and Mrs S 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.*

*If Tesco Underwriting Limited considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr S and Mrs S how much it's taken off. It should also give Mr S and Mrs S a certificate showing this if they ask for one, so they can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S and Mrs S to accept or reject my decision before 11 May 2022.

Jane Gallacher
Ombudsman