

The complaint

Mr M has complained about his let property insurer, Ageas Insurance Limited, as he feels the claim settlement it made to him for damage done to his property by his previous tenants and for lost rent was insufficient.

What happened

In August 2020, the tenant having vacated the property, Mr M found damage in a number of rooms. Items belonging to him were also missing. A claim was made to Ageas and it sent a loss adjuster to the property, following which a report was issued in September 2020. Ageas noted the limit on the policy for malicious damage and theft by tenants of £5,000. It didn't think the property was uninhabitable. In March 2021 it said if Mr M would accept the settlement of £5,000, this would be paid to him.

Mr M was unhappy with this. Particularly regarding loss of rent. But he also felt there had been delays and that other damage had occurred since the loss was first notified, with other damage covered by the policy having been overlooked by Ageas.

Ageas reviewed the other damage, whilst maintaining its £5,000 offer for the initial damage accepted under the claim. In August and September 2021 Ageas said it would pay Mr M a further £4,618.86 (in addition to the £5,000), broken down as:

- £309.98 for stolen white goods, net of the policy excess.
- £808.88 for accidental damage to sanitary ware, net of the policy excess.
- £3,300 for rent lost – six months, due to its delay in progressing the claim.
- £200 compensation for upset caused.

Ageas also set out its views on other damage and/or costs Mr M had asked it to pay but it felt it wasn't liable for. In summary:

- Front door – suffering general wear and tear.
- Laminate flooring – gaps in planks, but no sign of a water leak and likely pre-existing.
- Stair carpet – ripped, felt to likely be wear and tear.
- Boiler – been overfilled but this type of damage isn't malicious.
- Shower – no sign damaged maliciously or accidentally.
- Damp – occurs gradually and property lacks/needs damp proof course.
- Utility bills – went unpaid, policy doesn't offer cover for that.
- Lost rent over and above the six months offered – property was not uninhabitable.

Mr M challenged the reasoning behind Ageas' limited offer. He said there should also be cover under the policy for the cost of rubbish removal. He said he would accept £12,000 in full settlement of both his losses due to the claim as well as those caused by Ageas' delay. When Ageas wouldn't revise its offers further, Mr M complained to us. He told us that, in addition to the above disputed elements, he had to pay council tax in 2020/2021 as well, which he wouldn't have had to if the property had been tenanted.

Our investigator felt Ageas should be paying more, for the damaged carpet and for removal of rubbish. But that its settlement offers, including that for compensation for upset, were otherwise fair and reasonable. Mr M disagreed, particularly about compensation for upset – pointing out his health had been affected. But also on several topics of damage. His complaint was passed to me for an ombudsman's consideration.

I felt the complaint should be upheld. But my reasoning and the awards I felt were due differed to those set out by our investigator. The key difference being in respect of lost rent and compensation. So I set out my views, and related awards in a provisional decision, my findings from where were:

“policy excesses

Ageas has taken an excess from the settlements for theft (S1.A.7 of the policy) and accidental damage to sanitary ware (S1.B). The other damage in dispute would appear to fall for consideration under the policy cover for either accidental damage (S1.A.12) or escape of water (S1.A.6). For any damage I find Ageas should pay for under either of these covers, Ageas can reasonably deduct one policy excess for each area. Strictly speaking the policy would allow one excess for each instance of damage, and some damage might have occurred at different times. But it would be prohibitive, and therefore, unfair, to apply an excess for every instance. And I see Ageas explained exactly this premise, regarding malicious damage (S1.A.4), to Mr M in its letter of 23 August 2021.

malicious damage, white goods and sanitary ware

These areas/costs aren't in dispute so I'll say little more about them. Except to note that even though Ageas didn't feel the malicious damage identified would in the end, cost £5,000 to resolve, it maintained its offer of that figure. The total it felt the malicious damage repairs would cost was £2,927.71. And it said that it was reasonable for it to maintain the £5,000 offered in case costs had changed over time. I think that was reasonable.

front door

This is marked and the lock mechanism was damaged. I note Ageas' objection to paying for this to be repaired. I also note Mr M's contractor said the door was likely marked accidentally and the lock had similarly failed. His explanation about the lock damage implies that the mechanism was likely damaged when the tenant's last closed the door when leaving the property – he had to be called to open it.

I think the scuff mark, even noting Mr M's contractor's view, can't reasonably be said to most likely have occurred accidentally whilst the tenants were leaving the property. This is the type of mark that occurs during normal use and could have occurred at any time. But I find the contractor's comments about the lock persuasive. I don't think the tenant would have been living with a front door they couldn't use, and I've no reason to doubt the contractor had to be called to open it on the day the tenants left. It seems most likely to me it was damaged as they left – and the contractor thinks this was accidental. Mr M says the door can be repaired but I haven't seen an estimate to evidence the cost of this. If Mr M wants Ageas to settle for this, he will have to send his estimate to Ageas. If Mr M has had the door repaired already, Ageas will have to add interest to the settlement it pays to him from the date he paid for the work until settlement is made.*

stair carpet

It is ripped. Ageas said this was likely wear over time. Mr M's contractor confirmed it looked like rips caused by large objects being moved over it – and the carpet had only been fitted new the year before. Like our investigator, I think Ageas should pay for the carpet replacement as it seems it was most likely accidentally damaged by the tenant. I haven't seen an estimate to evidence the cost of this. If Mr M wants Ageas to settle for this, he will have to send his estimate to it. If Mr M has had the carpet replaced already, Ageas will have

to add interest* to the settlement it pays to him from the date he paid for the replacement and/or fitting until settlement is made.

laminated flooring

There are gaps between the planks. Damage like this is most commonly caused by water leaks (or sometimes poor fitting). But it seems there are no signs of the flooring having been subjected to a leak. And Ageas has said Mr M told it the damage was there when he last let the property. I don't see that Mr M has sought to challenge Ageas' view on the flooring. And I can't see, from the detail I've been presented by the parties, that it is something I could reasonably say Ageas is likely liable for. So I won't make any award in this respect.

boiler

Mr M thought this had been accidentally damaged, Ageas said it should be considered as an escape of water claim. I'm unsure why Ageas said that as the boiler itself did not leak. I realise that Mr M's plumber said it had been over pressurised causing leaks internally. But that is not what the policy offers cover for – that is damage caused by water escaping from an appliance or water system. So I don't think the damaged boiler is covered under the escape of water section of the policy, and I've considered whether it would fall for cover under the accidental damage section.

The policy says accidental damage is damage caused suddenly and unexpectedly by an outside force. The plumber said the damage was caused by over pressurisation, likely having resulted from "excessive filling" of the boiler. I think that would equate to an "outside force". But he hasn't commented on whether this could or might likely have been done by the tenant by mistake i.e. unexpectedly. If they knowingly overfilled the boiler that would not meet the definition of accidental damage (as damage would be expected) – and the malicious damage limit has already been reached. Nor does he say if the damage occurred suddenly. His letter of 28 August 2021 talks about the possibility of a lot of damage which can occur due to over pressurisation but, the underlying theme of that, I think, is that as pressure builds and is maintained, parts fail. And as one part fails, that has a knock-on effect on other parts. It seems to me, from what he has said, that it is, or on occasions at least can be, a gradual process. His evidence doesn't persuade me that the boiler at Mr M's property failed suddenly and unexpectedly. So, I'm not persuaded Mr M has shown he has a valid claim for the boiler under the accidental damage section of the policy. As such, I'm not going to require Ageas to cover its reinstatement cost.

shower

Here Ageas said this wouldn't be covered as an escape of water, or malicious or accidental damage. Mr M's contractor said he felt it had been damaged accidentally by water being sprayed onto it, causing damage internally.

I haven't seen that there was any escape of water (water exiting where it was meant to be within a water appliance or system) which caused damage to the shower. There hasn't been any suggestion the shower was damaged maliciously. Mr M's contractor thinks it was accidentally damaged by being sprayed with water. But I'm not persuaded this is most likely. A shower is designed to be used in a wet environment and should be capable of withstanding accidental splashing. Otherwise showers would fail all the time during normal use. So I'm not persuaded Ageas should reasonably have to pay for fixing or replacing the shower under the policy.

rubbish removal

The policy offers cover for removing debris associated with damage accepted as covered under the policy. So if, for example, to fix damaged plaster walls, plaster has to be removed, the policy will cover the cost of that removed plaster being taken away. The policy wouldn't generally offer to clear all rubbish left at a vacated property. Tenants do sometimes leave a

mess because they either don't know they should clean it up, or they don't care enough to do so. But it isn't usually malicious. I say that because I think Mr M is expecting Ageas to pay for clearing all the discarded items and rubbish left at the property by the tenants. And I want to be clear – I don't think it is liable for that. But I do think that Ageas should be liable for the cost of removing rubbish/debris from the property which is associated with the damage it has accepted, as well as that which I have found it is liable for, under the policy. For the avoidance of doubt that is the:

- malicious damage to; the wall and door in the bedroom and lounge, the landing ceiling and the kitchen base units
- broken toilet
- failed lock mechanism on the front door
- ripped stair carpet.

If Mr M has costs for removing debris related to any of these repairs/replacements, he should send the details, including estimates and or invoices setting out the costs, to Ageas. It should pay the reasonable, clear sums detailed without delay. If Mr M has had the work done and rubbish removed already, Ageas will have to add interest* to the settlement it pays to him from the date he paid for the removal (of debris caused by insured works) until settlement is made. He will have to produce his estimate for payment to be made.

delay

Ageas has acknowledged there were delays of around six months. But I think the period of delay was longer than that.

Mr M's tenants left in August 2020. It would always have taken, even a properly managed claim, a little while to progress. I see a loss adjuster issued a report in September and around then the policy limit for malicious damage (clearly stated on the policy schedule) was identified. And it was also clear at that time that there was some damage that might fall for cover outside of that – such as accidental damage to sanitary ware. I have no idea why it took so long for even the initial offer regarding malicious damage to be made. Or why the other damage wasn't all considered together, although it isn't unusual for claim settlements to be made piecemeal. Claims like this can be complex as there is a lot of damage to consider against multiple areas of the policy. And evidence needs to be gathered. Allowing for that I think a properly managed claim of this nature should have been resolved, to a point where Mr M could have progressed the majority of repairs, by the end of October 2020.

As it was it was only in March/April 2021 that Ageas offered Mr M £5,000 under the malicious damage claim. But, at that time, the loss adjuster told Mr M that he had to accept that in settlement of his claim for the sum to be paid. What the loss adjuster should have done – and did do later – was to say Mr M could have this as an interim payment whilst his further concerns were reviewed. Clearly Mr M felt he was due further settlement, and he was correct in that respect. So I can understand him not wanting to accept just the £5,000 on the table. It was 14 June 2021 before Mr M was offered this sum as an interim settlement. And this was then paid to him on 4 August 2021. I think the settlement of £5,000, whilst not all that was due to Mr M for repairs, did represent the majority of the claim value. And, I think, should've been enough for him to get the majority or insured repairs done – I've explained my views on what damage I think Ageas is liable for above. So I think Ageas caused this claim to be unreasonably delayed between November 2020 and July 2021 inclusive.

damp

Damp will occur over time in an empty property if it is not heated and/or ventilated properly. Mr M's property was empty for a long time. And I've found that Ageas did cause the claim to be delayed over a prolonged period (November to July). But I bear in mind that Mr M knew the house was empty and he could have looked to prevent damage occurring. And it's

important for me that the damage which occurred – damp and the like – was entirely unrelated to the damage claimed for. So Ageas' delay did not cause damage it was otherwise liable for under the policy to deteriorate further. I'm also mindful that Ageas seems to think the property was always in need of a damp proof course. All in all, I'm not persuaded that it would be fair, even though Ageas caused extensive delays to the claim, to make it liable for resolving the damp issues/damage at the property.

But I accept that it was upsetting for Mr M to know the claim was being delayed and to see the house was being affected in this way. Whilst I think he could have done more to prevent that – I bear in mind that preventative action would never have been needed and he wouldn't have been being caused upset if the claim had been handled in a timely manner. So I'll take that into account when I consider compensation.

lost rent

I've first thought about Ageas' liability under the policy. The policy says that if the property is damaged by a cause covered by Section 1A of the policy and, as a result of that damage, cannot be lived in, Ageas will cover the policyholder for rent lost. So for Ageas to pay Mr M for rent lost, the property has to be uninhabitable because of damage Ageas is liable for under S1A of the policy. And uninhabitable doesn't just mean it would be uncomfortable to live there. This service often views uninhabitable to mean where a home lacks some of the basic necessities – no electricity, heating, hot water or any sanitation or cooking facilities. But a very wet home, which is suffering damp and/or mould, perhaps as the result of a major water leak, might also be seen as uninhabitable. And looking at the specifics of this claim the relevant covers available under S1A of the policy are escape of water, theft, malicious damage and accidental damage.

Mr M's property had electricity. There is an issue with the boiler – which may mean there's no heating or hot water at the property. But I have found it is not something Ageas is liable for under S1A of the policy.

Mr M says the only toilet in the house couldn't be used – and Ageas settled for that damage. But that was under accidental damage to sanitary ware – which is S1B of the cover.

Mr M has provided a photo of the hob in the kitchen which he says shows the cooking facilities were affected. The photo appears to show missing rings. In that case it is likely the hob cannot be used and that type of damage might fall for cover under S1A as malicious damage, or theft if the rings are not in the house. But I've not seen this damage having been considered by Ageas at all during the lengthy claim – or mentioned by Mr M in his correspondence with it. In any event, even if the hob cannot be used, that doesn't mean the oven cannot. I'm not persuaded there is an absence of cooking facilities at the property.

There is clearly damp and mould in the property. And it may well be that is severe enough to mean the house is not safe to live in. But Mr M's argument with the damp is that it occurred because the home was left empty for so long following the incident and claim. So it isn't part of the damage covered by the policy.

Therefore, having considered all of that, I'm satisfied that Ageas has no liability, under the policy, to Mr M for rent lost. But it's clear the claim was delayed. So I've thought about Ageas' liability for rent lost due to poor claims handling.

Ageas paid Mr M six months lost rent due to its delays. Applying that to my time period for a reasonably handled claim (set out above in my section on delays) – that reimburses Mr M for lost rent for November 2020 to April 2021. Mr M has said he wants his losses through to October 2021 to be reimbursed by Ageas. Referring again back to my section on delays, I don't think payment over that whole period is reasonable. I've found that Ageas delayed

matters unreasonably until the beginning of August 2021 so I'm going to require it to settle for Mr M's lost rent to that point. That is a further three months of rental payments for it to pay – May 2021 to July 2021 inclusive. Rent was £550 per month. So that is £1,650 for Ageas to pay.

I'll also require Ageas to pay interest on each of the monthly rental amounts that Mr M should have received during the whole period of delay, November 2020 to July 2021 inclusive. The monthly rental amount is £550 and Mr M's previous lease shows rent was due on 20th day of each month. Ageas will, therefore, need to apply interest on £550 from 20 November 2020 until settlement is made. And also on £550 from 20 December 2020 until settlement is made. And so on, until interest is paid on all rental amounts that Mr M should have received but didn't because of Ageas' delay, up to and including 20 July 2021.

council tax

I don't know if Ageas has had the chance to consider this. But it makes sense to me for me to address it here, as it is something which is really a part of the lost rent issue. Ageas has accepted that there were delays and offered six months lost rent. I've added to that and clarified that the total period for delay over which lost rent is to be paid is November 2020 to July 2021 inclusive. If the house had been tenanted during that time, Mr M wouldn't have had to pay council tax. It follows that Ageas should reimburse him any council tax he had to pay for the period November 2020 to July 2021 inclusive. Plus interest on each sum he paid, applied from the date each was paid until settlement is made. He will have to produce his bills for payment to be made.*

utility bills

Ageas said Mr M wanted it to pay for bills the tenant hadn't paid. He doesn't have cover for that. I think that response from Ageas is reasonable. But Mr M told our investigator it was the cost of bills for the period the property was unoccupied that he wanted Ageas to pay. Whilst the policy wouldn't cover that either, Ageas did delay the claim between November 2020 and July 2021. Following my findings and awards for lost rent and council tax, I think Ageas should reimburse Mr M for gas and electricity costs he incurred for usage (including any standing charge) at the property during November 2020 to July 2021 inclusive. To any individual amount Mr M paid for that, interest will have to be added to the settlement from the date the sum was paid by him until settlement is made. He will have to produce his bills for payment to be made.

compensation

I understand that this has been a worrying time for Mr M. And I've seen a letter provided from his Primary Mental Health Nurse. I know Ageas has seen this letter to, so I won't go into it in detail here. In short it confirms that Mr M's health has suffered on account of this prolonged claim – which I've found Ageas unreasonably delayed. And it seems he had been suffering for a few months by the time he saw the nurse as that appointment had resulted from a GP referral. Also Mr M told Ageas in May 2021 that he was very stressed and had received a "sick note" from his doctor.

Mr M has also explained that his family have been upset by matters too. Whilst I can't take their upset into account, I bear in mind that their upset would have caused further anxiety for Mr M. Including that he has described that his mother felt compelled to move away rather than continue to see him suffer.

That was all over and above the general frustration and worry Mr M was experiencing directly on account of the delayed claim. And I've mentioned about the upset he was caused by seeing his property deteriorate. I also understand that the loss of rent had financial implications for Mr M, so he was worried about that too.

In summary, in my view, the period over which this claim was delayed was excessive, and that had a cumulative and extreme effect on Mr M, in that his health suffered. That is on top of the general frustrations and worry caused by dealing with the prolonged claim. I think Ageas should pay him a total of £2,000 compensation to make up for all of that. I understand that £200 has already been paid. So Ageas need only now pay Mr M, if my final decision remains the same and Mr M accepts it, a further £1,800.”

Ageas didn't respond to my provisional decision. Mr M asked me to review my findings about damp and compensation.

Regarding the damp, he said he had done what he could to prevent damage – installing dehumidifiers and opening the windows two to three times a week. But he ultimately had to fit an electric damp proofing unit. He explained that he had told the loss adjuster in September 2020 that he expected damage would occur if the claim was not settled quickly. Mr M said he felt the fair outcome would be for the cost of repairing the damp to be split between him and Ageas.

In respect of compensation Mr M said his health will be affected for a long time and has caused him to leave his job. He said his mother lost her life due to the upset caused by this claim – and he will always bear that guilt. Mr M said £2,000 can't bring his mother back to him and doesn't meet what he has lost from leaving his job. He concluded that for everything he and his family suffered, £2,000 is not enough.

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 neither party has objected to or commented on the majority of my findings, I've no need to change or add to them. But, in light of Mr M's reply, I've reviewed matters further in respect of the damp and compensation.

I can understand why Mr M feels he shouldn't bear all of the cost for resolving the damp at his property. But the fact he had to fit electric damp proofing demonstrates that the underlying cause of the damp was unrelated to the loss suffered. And whilst I know he says he did all he could to look after the property during the winter of 2020/2021, I'm conscious that he could not and did not heat it because the boiler had failed. I found provisionally that Ageas had no liability for fixing that. If Mr M knew damage would occur over the winter without some significant action, I'm not persuaded that installing a dehumidifier and opening the windows occasionally was a reasonable reaction to that threat. I remain of the view that whilst I am satisfied Ageas delayed settlement of this claim, it is not fairly and reasonably liable for the damp that resulted at the property or the costs Mr M incurred resolving that.

I understand that this has been a more than difficult time for Mr M and likely his family too. But, as I explained provisionally, I can't take into account the upset of his family. And whilst I know Mr M believes his mother's passing was directly related to this claim, I can't know if that was the case. I also can't know how much her loss affected his health further, or whether he was impacted by anything else. So I can't reasonably accept that his leaving his job most likely occurred because of the upset Ageas caused him by failing to handle this claim in an appropriate and timely manner. That said, I know that losing his mother in such circumstances, and having seen his family become worried about his failing health are difficult for Mr M to bear. I also accept there is no quick fix for Mr M's health – he won't immediately recover upon receipt of my decision. And I can assure Mr M that if I had not accepted the extreme affect Ageas' failures had had on him, I'd likely have found it fair and reasonable to award far less compensation. In the circumstances here, and for the reasons which I've explained I am awarding compensation for, I am satisfied that £2,000 in total is a fair and reasonable award.

Putting things right

I require Ageas to pay Mr M:

- An amount for the cost of repairing the front door lock and replacing the stair carpet, pending proof of these from Mr M, less the £100 policy excess for accidental damage claims. But, if Mr M has already paid for this work and can show that, to add interest* on the cost charged for each job, from the date each was paid for until settlement is made.
- An amount for rubbish removal for any debris that occurs due to works, insured under the policy (see above), being undertaken at the property. But if Mr M has already had the work done and rubbish removed, to add interest* on the cost paid until settlement is made.
- £1,650 for rent lost for the period May 2021 to July 2021 inclusive.
- An amount equivalent to interest* on each monthly amount of rent of £550 from the 20th of each month – as explained above – until settlement for the rent lost is/was made.
- An amount to reimburse council tax charged for the property between November 2020 and July 2021 inclusive, subject to proof of costs. And where Mr M evidences his payment of any costs, apply interest* to each amount paid until settlement is made.
- An amount to reimburse charges for gas and electricity usage at the property between November 2020 and July 2021 inclusive, subject to proof of costs. And where Mr M evidences his payment of any costs, apply interest* to each amount paid until settlement is made.
- £1,800 compensation, making total due against this claim £2,000, with £200 having already been paid.

*Interest is at a rate of 8% simple per year and paid on the amounts specified and from/to the dates stated. If income tax is to be deducted from the interest, appropriate documentation should be provided to Mr M for HMRC purposes.

My final decision

I uphold this complaint. I require Ageas Insurance Limited to provide the redress set out above at "*putting things right*".

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 23 June 2022.

Fiona Robinson

Ombudsman