

The complaint

Miss C has complained about her property insurer Zurich Insurance PLC in respect of repairs it completed at her flat following a fire.

What happened

There was a fire in the kitchen of Miss C's flat in November 2019, which the fire brigade put out. The entrance to the kitchen is a double fire door. Some of the kitchen units were affected by the flames, and the room was badly smoke damaged, with the fire doors mainly protecting the adjoining lounge from damage (although painting in the lounge was required). Zurich reinstated the kitchen but a number of issues arose with the work that it did. Zurich offered Miss C a total of £1,050 compensation and agreed to resolve a number of issues. But disputes remained about several items, and how Zurich might resolve some items wasn't entirely clear. No re-work was done. Miss C complained to us.

Our investigator felt Zurich did need to do a few more repairs than it had offered to. But he didn't agree it should do everything Miss C had said she wanted it to do. Miss C indicated that she disagreed with our investigator's findings. And Zurich didn't agree to the extra work the investigator suggested. So, the complaint was passed to me for consideration.

I felt the complaint should be upheld, and for different reasons and with different awards than those put forward by our investigator. So I issued a provisional decision to explain my views on the complaint and to give both parties a chance to respond to my findings.

Zurich said it disagreed with my findings. Miss C was also unhappy with some of the things I'd found. As there are multiple issues in question, for ease of reading, below I've set out the parties' responses and my further findings against what I said provisionally. My provisional comments are quoted in italics.

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.

design issues

"There are a number of issues that Miss C has complained about and which Zurich has dismissed, on account of them being "design" issues. Zurich says it didn't design the kitchen – Miss C did that with the kitchen supplier. So, Zurich's logic is, that any and all issues that are 'design' related, aren't for it to deal with. I think its logic is flawed and, consequently, I don't think all the 'design' issues can be so easily dismissed.

Zurich entered into a contract for repair with Miss C. It agreed to replace her kitchen. But it doesn't supply its own kitchens and its fitting contractor doesn't design them. So Miss C had to liaise with a kitchen supply company to design a kitchen which was then supplied to Zurich's contractor. And which Zurich's contractor paid for. But the kitchen, apart from in respect of an agreement Miss C and Zurich had come to over the level of quality of kitchen it

would pay for, was meant to be 'like' the kitchen Miss C had before. The kitchen supply company didn't know that. But Zurich's contractor did. And Zurich's contractor based some other repair elements around the kitchen being 'like' that which was in place before. For example; a section of undamaged skirting board, which previously ended where it met the front edge of the old kitchen base units wasn't replaced or adapted. It wasn't damaged so didn't need replacing for that purpose. And as the new kitchen should have been the same size as the old one, it wasn't expected for there to be a gap. So Zurich's contractor, because it was fitting the kitchen, and in doing so had to complete a good repair on behalf of Zurich, should have been liaising with Miss C about the design and overseeing the process. I know Miss C saw the kitchen design plan and agreed to it. But I think there are things on there which she reasonably didn't spot, but which Zurich's contractor, working in line with the role I've just described, should have seen and taken the opportunity to rectify.

So, I don't accept that it's reasonable for any 'design' issues to be dismissed on account of Zurich not being liable for them. As such, I'm not going to differentiate in my findings below between 'design' and other issues. Rather, I've looked at each issue of concern for Miss C and decided whether it's something Zurich should be resolving."

In summary Zurich said the kitchen designer would have discussed with Miss C that she didn't have to have an exact like-for-like kitchen – this gave her the freedom to choose to change and update her kitchen as she saw fit. The designer, Zurich said, was the expert and provided drawing and images to assist Miss C in seeing how the kitchen would look, which she agreed to. So it doesn't feel it should now be responsible for her changing her mind. Miss C reiterated that she had felt pressured into agreeing the design and that Zurich had accepted that.

I don't think Zurich can reasonably know what the kitchen company discussed with Miss C. And I'm certainly not saying policyholders shouldn't have the freedom to choose to upgrade or change their kitchen if they want to and the insurer is happy to allow that. All I am doing is looking at what happened here and whether I think, in this situation, Zurich can fairly and reasonably dismiss any liability to Miss C for design issues. I explained provisionally why I don't think it can, and nothing Zurich has said in reply has changed my view on that.

no under-oven drawer

"Miss C says she was told there'd be an under-oven drawer. Whilst I don't doubt what she says she recalls, I'm not persuaded I can fairly make Zurich install one. There wasn't a single drawer listed on the design plan (only a set of four drawers), Miss C didn't have one before and I've seen nothing in writing that indicates Miss C was told the new kitchen would include one, or even that, at some point before the design plan was agreed, she'd been given to understand this was the case. I don't uphold this element."

Miss C said she'd agree with me on this – as long as Zurich, as previously agreed, fits a shelf as a compromise for losing the drawer space. Whilst I understand this is an important issue for Miss C, I'm not persuaded I can reasonably require Zurich to do anything in this respect. I know handling the design was difficult for Miss C, and my findings which include directions for Zurich to fix some design issues reflect that. But, as explained provisionally, I'm not persuaded that this issue is one I can reasonably make Zurich fix, either by fitting a drawer or a shelf.

poor finish to internals of cupboards

"Miss C says one cupboard has no top as the work surface can be seen, and that a rear panel has been cut poorly. Whilst these issues are far from ideal, I don't think they materially affect the finish or functionality of the kitchen. I'm not going to make Zurich resolve them."

Miss C said she is not sure if this contradicts my point later about the sink end panel. But she'd like all the cupboards to be finished professionally as that is what she had before. I can assure Miss C there is no contradiction. The sink end panel is not part of the internals of the cupboards and Zurich accepted that the sink end panel, which had been cut roughly, needed repairing. So it's a different issue. I know Miss C feels the finish is poor compared to what she had before. But not all failures by a business or differences in implementation will result in a need for rectification. Here I remain of the view that there is no real loss for Miss C because, as I said provisionally, the finish and functionality of the kitchen isn't materially affected. I remain of the view that, there's no reasonable grounds for me to make Zurich do more in this respect.

window frame

"Zurich's assessor looked at the frame, he accepted it needs a light clean but didn't think the paintwork is damaged. The frame is of a dark finish. I can see some darkened areas on it that might be indicative of ingrained soot damage (and I note that Zurich accepts it took too long to initially clean the kitchen). So I can see why Miss C might feel the frame needs repairing. But the darker areas might just be how the frame was before, or a reflection or shadow caused by the camera. The person best placed to determine this issue was Zurich's assessor, because he viewed the frame in person. I've not seen anything that makes me think his conclusion is wrong."

Miss C said that there is smoke damage clearly visible on the frames which she hasn't been able to resolve by cleaning. She said she'd like the frames restoring to how they were before the fire. I understand Miss C's frustration in this respect. But her view that there is ingrained smoke/soot damage is not reflected by Zurich's assessor. I'm not persuaded there are reasonable grounds on which I can fairly make Zurich restore the window frame.

plastic fittings

"Miss C is worried they're damaged. Zurich's assessor says he couldn't see any sign they are damaged. Whilst I can understand Miss C's concern, Zurich's assessor's view can't reasonably be discounted. I'm not satisfied these are most likely damaged and in need of replacing."

Miss C sent a photo and explained that the word "on" was rubbed off the cooker switch during the cleaning process. I understand that Miss C feels this is damage, but I'm not persuaded it is damage to the plastic fitting such that would reasonably require it, or any other plastic fittings, to be replaced.

boiler cupboard end panel

"Photos show a fitting screw has been driven too far in and has damaged the exterior of the panel. I think this panel needs replacing."

Zurich said this issue hadn't been raised with it before. I'm satisfied it was drawn to its contractor's attention. However, in her reply to my provisional findings, Miss C advised that the contractor has resolved the issue. So I'll remove the requirement for Zurich to rectify this.

boiler cupboard door

"The cupboard faces the work surface. The old cupboard had a plinth of significant depth at its bottom with the door opening above. Whilst there is a plinth on the new cupboard it isn't very deep. I can see Miss C's concern – this is a small kitchen with limited work space, and

the cupboard is near the sink, where pots might be stacked for washing. Overall Miss C had a design which worked for her before, and doesn't have that now. And I don't think Miss C would have known from the design plan that this key aspect of her kitchen had changed. Importantly I don't think she should have thought to check she would still be getting this – other than the cupboard being new there was no reason for her to think the size of the door, and or the plinth it would sit on, would change. However, Zurich's contractor, who knew and understood all the relevant measurements, could have seen that. I think Zurich has to amend the boiler cupboard door so it functions similarly to the way it did before (and I think the photos taken immediately after the fire show some good reference points for determining the size of adjustment needed)."

Zurich's objection to this was that it isn't responsible for design issues. I've responded to its concern in this respect above and, as explained, my view on its liability in this respect hasn't changed. So I remain of the view that it must resolve the door height.

double wall unit

"The photos of the kitchen show that there were two single cupboards to the top left of the cooker. Miss C has explained why it is important to her to have two single cupboards. But the kitchen design shows that a double unit was put in their place. I know Miss C did not want that, and I think she clearly didn't understand that was what she was getting. The design does state "double" and whilst I know what that means, I'm not sure Miss C did. And photos taken just after the fire do show the contents in one side are very carefully stacked – I can see why this wouldn't work for Miss C as a double cupboard. I see this similar to the boiler cupboard door – Miss C had something which worked for her, I don't think it's reasonable to assume she'd knowingly agree to something different being put in place, which clearly wouldn't work for her. I'm minded to require Zurich to change the double cupboard for two single ones."

Zurich's objection to this was it isn't responsible for design issues. And it had no input in the signing off process so it doesn't feel it is fair and reasonable to make it change this cupboard. I think that here Zurich did have 'input' as it was the designer's customer, not Miss C. And the designs were put to Miss C via its contractor. I've responded to its more general concerns in respect of it not being responsible for the design issues above and, as explained, my view on its liability in this respect hasn't changed. So I remain of the view that it must replace the double cupboard for two singles.

worktop

"The new worktop, under the boiler, running along that wall under the window, isn't as wide as it was before. It's also scratched. Zurich agreed to fix the scratches but, regarding the width, said that's because it is the standard size offered by the kitchen supplier, and which Miss C chose. Here, I'd refer Zurich to what I said above about the fact its contractor should have been overseeing the design and Miss C's selection of materials. Quite apart from the new worktop being smaller, the shallower worktop dictated the units being placed further back than they had been before. Zurich's contractor should have spotted this (it left the skirting short and meant the floor tiling had to be adjusted) and checked with Miss C that she was aware she had selected something different to that she'd had before. The before and after photos show this is not an insignificant difference, and I say that particularly given the kitchen and worktop area wasn't that big to start with. I'm minded to make Zurich replace the worktop with a wider option. As a consequence of this, it won't have to repair the scratches."

Zurich said its contractor fitted the worktop Miss C chose – and she must have known the detail of the worktop because the appliances she chose fit it perfectly. Miss C said it is the wider section of worktop that is scratched and chipped, not the section under the window.

Whether Miss C knew the details of the new worktop or not, and I'm mindful we don't know how much she understood and how much she was guided by the kitchen designer, that doesn't mean she understood how different this was from the worktop she had before. I've explained why I think Zurich is responsible for the design flaws, my view on that hasn't changed. So I still think Zurich should replace this section of worktop. And as it is the other section of worktop, which I am not requiring it to replace, which is damaged, that damage will need to be repaired, as Zurich had agreed to do.

hinges

"Miss C says she wasn't told what hinges would be used, or given a choice. But that actually the kitchen has been fitted with a mix of soft and hard close hinges. I don't think a mix of hinges should have been used. Miss C should decide which she prefers; they can remain, and any which are not of that type, Zurich should replace."

Neither party objected to what I'd said in this respect. So I've no need to say anything further, other than to confirm that my view on this issue hasn't changed.

silver edging

"The inside front edges of the cupboards have a silver finishing face. The silver is lifting. I wouldn't expect a new kitchen to be suffering in this way so soon. Zurich seems to think this is an issue for the supplier to deal with. But Zurich provided and fitted the kitchen. It will have to rectify the edging. I'm not sure if the existing edging can be repaired to a good standard or, if it can't, if it can be removed and replaced. If neither of these options is possible, the cupboards will need replacing."

Zurich said the edging can be refixed or replaced – replacing the cupboards isn't necessary. I note this response, but my award will remain that if this is not possible, the cupboards will have to be replaced. And in saying that I'll emphasise that the repair will have to be long-lasting – so if Zurich refixes or replaces the silver edging and it lifts again in the short term, that will not be a long-lasting repair. Should that happen, the cupboards would have to be replaced.

highline cupboard

"There is grout on this cupboard which Zurich has said it will remove. But the exterior surface of the door and end panel are also lifting. Zurich has said it will rectify this. But it hasn't said how. To me though, 'rectify' equates to repair. And, in my experience, once laminate style cupboards start with this kind of damage, it can't be repaired long term. That is because humidity gets inside where the material have separated. I think Zurich needs to replace this cupboard. That being the case, it doesn't need to clean the grout from it."

Zurich said it has already agreed to remove the grout and it thinks a repair would be successful. Miss C said the edges are generally of poor quality – and she hadn't been expecting that. I note Zurich's view of what its contractor says. But I don't find this type of third-hand evidence compelling. Not least when there's no explanation that refutes, from the expert's perspective, my provisional findings on this issue. With nothing persuasive to make me change my view on this issue, my final decision remains as that stated provisionally.

silicone and tiling by the window

“Miss C has reported, and evidenced in photos, that the silicone finish in places is poor. She’s also shown the grouting on the tiling by the window is cracked. Zurich should rectify both of these instances of poor work.”

Zurich said it had already agreed that this needs resolving. Miss C said all she wants is for the tiling and beading to be finished neatly, as it was before. I note Zurich’s acceptance of this, and Miss C’s comments in reply. My comments have been made in respect of silicon and grouting, not beading. But Zurich should give consideration to Miss C’s concerns about the beading. If the parties want us to, we can share with Zurich the details Miss C has sent us, as part of her response to my provisional decision, about the beading.

lounge flooring

“This was damaged when Zurich’s contractor placed the old oven on it. I think, from what I’ve seen, Zurich accepts it damaged this flooring. In any event, having seen the photos of the damage, I think that is most likely the case. The flooring will need repairing/reinstating.”

Zurich said it has agreed a repair. There’s no need for me to add anything more.

other repair issues

“There are a number of items which Zurich, in its October final response letter, agreed to rectify and which I, having seen the submissions from both parties, don’t feel I need to comment on in detail. But the repair/resolution of these items is outstanding, so I will need to include a direction in respect of these items in my award. So, for completeness and clarity, I’ve listed them here:

- *Lip handles – Miss C says the wrong ones were fitted, Zurich will replace.*
- *Extractor fan – Miss C says it doesn’t work like her old one, Zurich will replace.*
- *Yoga mat, chair leg, radiator – affected by spilt paint, Zurich will pay to replace the mat and has agreed to repair the other items.*
- *Roller mark on wall – Zurich agreed to repair.*
- *Cooker – needs adjusting as out of square, Zurich agreed to adjust.*
- *Tiles – edging and mitres are poor, grouting and adhesive on walls, Zurich agreed repair.*
- *LED lights – chosen without Miss C’s consent, Zurich agreed to change.*
- *Sink end panel – cut roughly, Zurich agreed repair.*
- *Pen marks – red pen, Zurich agreed to remove.*
- *Double fire doors – damaged by fire, Zurich agree to replace.*
- *Kickboards – out of square, Zurich agree repair.”*

Miss C said that in replacing the extractor fan, one with an automatic humidistat is required, and the rubber from the yoga mat, where it stuck to the skirting board paint, needs removing. She said she made Zurich aware of an issue with the fire safety strips in the doorframes and she’d like a fire safety specialist to look at this. She said she wants the plumbing under the sink to be reviewed (some work was done to improve this but Miss C still isn’t happy with it).

I’ve added Miss C’s comments here so Zurich is aware of them. I’m sure it will want to resolve this claim fully so that both parties can move on. But I can’t make findings about new issues or new concerns about pre-existing issues, such as the rubber on the skirting board, the fire strips and the remaining dissatisfaction with the plumbing.

implementing repair

“I’m aware that Miss C has certain health conditions that are exacerbated by stress. Whilst I don’t think Zurich’s contractors completed entirely negligent work, they did leave a lot of

issues to be resolved. They also didn't communicate well with Miss C. And I can understand why, Miss C having noted paint, grout and adhesive where it shouldn't be, felt the contractor didn't take good care of her property. She also felt as though she had to project manage the work. And I think it would be stressful and difficult for Miss C now to find a contractor of her own to fix the problems left by Zurich's contractor. So, on this occasion, I'm going to require Zurich to appoint a loss adjuster to oversee resolving all of the above issues I've said or recorded need sorting; whether that is repair or replacement of items. The loss adjuster should be Miss C's point of contact and ensure all work is completed to a good standard, in a timely manner and with as little disruption or stress caused to Miss C as possible. And in respect of the work itself, Zurich should appoint a different contractor (Miss C should be aware though that it might be necessary, given the nature of some of the work, for more than one contractor and/or supplier to be appointed)."

Neither party objected to what I said in this respect. So I've no need to change or add to it.

oven

"Miss C took the opportunity to change her oven. Zurich says it doesn't need to contribute to the cost of the new oven because the old one wasn't damaged in the fire. Zurich says its contractor told it that it had an electrician check the oven, and it was ok. But it hasn't provided any evidence to support this. The kitchen in that area was damaged by flames and no details have been given to me to explain how the fire brigade extinguished the fire, which occurred on the hob directly above the oven. Without clear proof to the contrary I'm minded to think it's reasonable to conclude the oven was likely damaged during the fire and/or extinguishment. Zurich should pay Miss C's cost for replacing her oven, £373.00 plus interest from 10 March 2020, the date this was paid for, until settlement is made."*

Zurich said its contractor and electrician had checked the oven, there hadn't been a need to issue a safety certificate. I appreciate Zurich confirming this. But I don't find the explanation to be persuasive evidence that the original oven wasn't damaged either by the fire or during its extinguishment. And I explained provisionally, I think it's most likely, based on what is known about the fire, that it was. Zurich's confirmation doesn't change my view in this respect, so I still think it should pay for the replacement, plus interest.

compensation

"This has clearly been a difficult time for Miss C. And I note her health has suffered. But I also see that Zurich has offered Miss C a total of £1,050 compensation to make up for the distress and inconvenience caused by its poor repairs. I think that's a fair and reasonable sum in the circumstances."

Miss C said she hadn't received this offer from Zurich. But she said she accepted that it was fair and reasonable. For completeness, I'd explain that Zurich's total of £1,050 was split across two offers. The first, in its email of 29 April 2020, was £300. The second was made on 29 October 2020 for a further £750. If Zurich hasn't paid these sums to Miss C, or if it has paid them by cheques which haven't been cashed, it should now pay them/pay them again.

Putting things right

I require Zurich to arrange the following repairs, in line with my directions explained above, which include appointing a loss adjuster and new contractors:

- Boiler cupboard – repair/rectify the door height (so it opens at the height it did before).
- Double wall unit – replace it with two single units.

- Worktop – replace the section that holds the sink for one as deep as it was before. And repair the other section.
- Hinges – replace, at Miss C's choice, either the soft or hard close hinges.
- Silver edging – repair or replace this – but if that can't be done in isolation from the cupboards whilst ensuring a satisfactory, long-lasting finish, the cupboards will have to be replaced.
- Highline cupboard – replace it.
- Silicon and tiling by window – rectify.
- Lounge flooring – repair it, but if it can't be repaired, replace it.
- Other repairs – complete the list of other repairs set out above.

I also require Zurich to pay Miss C:

- £373 for her oven, plus interest* from 10 March 2020 until settlement is made.
- Any part of the total compensation it has offered of £1,050 that has not either already been paid by it and/or, if any part was paid by cheque, cashed by Miss C.

*Interest is at a rate of 8% simple per year and paid on the amounts specified and from/to the dates stated. If Zurich Insurance Plc considers that it's required by HM Revenue & Customs to take off income tax from any interest due to Miss C, it should tell her how much it's taken off. It should also give Miss C a certificate showing this if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 8 July 2022.

Fiona Robinson
Ombudsman