

The complaint

Mr R, on behalf of Livegrange Limited (LL), complains that its commercial property insurer, Allianz Insurance Plc, damaged kitchen units following a claim at its property. LL say the dispute that followed has meant the restoration works have been on hold since 2020.

What happened

In 2018 LL notified Allianz of damage at its property from an escape of water. Allianz appointed a loss adjuster to manage the claim, but difficulties and disagreements about the work and contractors ensued and LL complained. Allianz responded in May 2020 to say its agents should have made the process smoother, but wanted to finish the claim as soon as possible. It said its loss adjuster shouldn't have offered a cash settlement as LL had said it didn't want this. Allianz paid LL £500 compensation for Mr R's distress and inconvenience.

Allianz said LL asked to delay works for six months until its tenant's lease ended, and then asked for a further six months delay. It said this meant when the floor covering was lifted extensive mould was discovered which it had to fix. Allianz said LL cancelled the restoration work scheduled for February 2020. In September 2020 LL's kitchen was removed by Allianz's agents and LL said that units were damaged. LL complained that Allianz wouldn't replace all the kitchen units and appliances and work on a stud wall.

In December 2020 Allianz offered to settle the claim by cash or repairs. Allianz said its loss adjusters tried to progress the claim, but each time LL raised disputes and its attempts to arrange for the contractor to start the repair to the stud wall and decoration were blocked as LL requested further loss of rent payments. Allianz's offer included a breakdown of costs, and said the work would take 10-12 weeks and it included 12 weeks loss of rent. LL said that due to its previous experience it didn't want Allianz's agents to carry out the repair works.

Throughout the period of the claim the property remained untenanted. Allianz said that the removal of the kitchen and work top caused damage to one unit, which it would replace and would refit undamaged items. It said there's some small rust at the rear of an appliance, but this had no impact visually or on its working and so didn't need to be replaced.

Our investigator recommended that the complaint be upheld in part. He understood why LL had lost trust in Allianz's agents and didn't want them to do the reinstatement work. And said Allianz could either appoint another agent to do the work, or meet LL's quote, either way Allianz should add the cost of utility bills and council tax for 12 weeks. The investigator said that there is no cover in LL's policy for their loss assessor's costs to be met.

Allianz replied that it hadn't insisted its agents do the work and its cash offer wasn't accepted by LL. It agreed to include council tax and utility bills with a payment for 12 weeks loss of rent, though it said council tax is an inevitable cost of being a landlord even without a tenant. Allianz said it could appoint another agent, but the works still wouldn't be acceptable to LL. It suggested LL obtain its own quote and Allianz's surveyor would validate the proposal.

LL said Allianz's offer came long after the claim and its complaint to us and it had said it didn't want a cash settlement. LL said as all delays from this point were caused by Allianz

and its agents, loss of rent and other costs should be met until the work is completed, not just for 12 weeks as the investigator had said. LL said Allianz should pay for the storage of kitchen units and provide a new loss adjuster and new plan to be agreed upon by all parties.

LL said the investigator had established that Allianz's agents didn't fulfil their obligations and that it had refused to engage in any further dialogue, stating that LL could refer the complaint to our service. LL said it made multiple attempts to break the impasse, but Allianz refused to engage. LL said Allianz made an offer soon after LL's complaint to our service, but this doesn't absolve Allianz of responsibility for the delays, or the mistakes by its agents.

As both parties were unhappy with aspects of the investigator's view of the complaint it has been referred to me as an ombudsman to decide the outcome.

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.

In common with the rules that are set for our service by the Financial Conduct Authority about the complaints that we may and may not consider, I have only considered LL's complaint up to December 2020 when the complaint was referred to our service. Any complaint issues after this (such as storage costs and further delays) can be the subject of a separate complaint to Allianz, and then our service if necessary. I'm grateful to both parties for their timelines.

LL's claim was accepted and partially worked on by Allianz and the main issue of the complaint is the delays that have followed. It's worth bearing in mind that large damage claims from an escape of water are usually complex and involve multiple parties. That is the case with LL's claim, but I don't think it should have taken as long as it has to resolve. LL thinks Allianz should pay its loss of rent and other costs incurred during the stalled claim up to when the repair work is completed. Allianz accepts the investigator's suggestion to pay loss of rent and other costs for 12 weeks of the repairs, but not before. I have considered what would be fair in the circumstances.

Problems with the claim took time to resolve, including the mould and obtaining pictures and reports. Allianz says there were also holdups due to LL waiting for its tenancy to expire, disputing aspects of the claim at each stage while it paid for LL's loss of rent until capped. Allianz's records of communications between the parties' support this including months for LL to provide estimates and delays following the agreement to repair the stud wall.

LL said it didn't want any involvement with Allianz's contractors as it felt they had impeded the resolution of the complaint by using incorrect information such as that the kitchen units were damaged when installed. I have seen the details of the dispute about the damage to the kitchen and I have seen that LL's lack of response to Allianz's contractor was raised by the loss adjuster. I think LL should accept that not engaging with the contractor would mean delays were inevitable as were requests that the loss adjuster be removed from the claim. LL was entitled to raise disputes but should accept the effect of this on its claim.

I think Allianz was concerned about the cost of the work quoted by contractors and sought to manage costs, but in its response to the complaint in May 2020, it paid LL £500 compensation for the delay and for offering a cash settlement when LL had previously said it didn't want this as it was concerned about the risk of increased costs. I think this was fair.

Allianz renewed its cash offer or repair option in January 2021 and said the kitchen could be reinstated. LL responded by disagreeing that the kitchen had been removed without significant damage and said, 'all works will need to be suspended until this is resolved.'

I agree with LL that Allianz's detailed offer should have been made before December 2020, but it was before our consideration of the complaint. I think Allianz was slow to appreciate that full restoration of the property was required. However, Allianz acted as we would expect by offering a cash settlement or repairs and its loss adjusters remain ready to manage the claim. And so I don't agree with LL that Allianz refused to engage in any further dialogue. However, it's clear the relationship between LL and Allianz's agents has broken down and so if repairs are carried out, Allianz should appoint different agents to do this. If Allianz is unable to do this it should meet a reasonable estimate provided by LL for the cost of the work.

From what I've seen of the claim's timeline, most delays occurred after Allianz's final response to the complaint, and as stated above we can't consider these until they have been referred by complaint to Allianz. And so I don't think it would be fair for Allianz to have to pay any further compensation to LL or to meet costs outside of the 12 weeks it has been estimated to complete the repairs to LL's property.

LL suggests that the kitchen units are now returned to site, but the parties disagree as to whether the kitchen is suitable to be reinstated in its present state. Allianz says that the kitchen is suitable as it hasn't suffered any detrimental effects, though it shows signs of age, wear and tear. The policy covers LL for reinstatement of the kitchen, but this doesn't include the replacement of any undamaged items or items suffering from wear and tear. And so, in the absence of any expert report to say otherwise, I think that subject to the replacement or repair of the damaged unit, the kitchen can be reinstated.

Having looked at LL's policy, I can't see any provision for the policyholder to recover fees incurred for a loss assessor and so I make no award about this.

My final decision

For the reasons I have given above it is my final decision that the complaint is upheld in part. I require Allianz Insurance Plc to resolve Livegrange Limited's claim either by appointment of another agent to do the work, or if this is not possible for Allianz to do this, it should meet a like-for-like quote provided by LL. Either way Allianz should include the cost of repair or replacement of the damaged unit and the work to the stud wall. Any payment should also include LL's loss of rent, utility bills and council tax for 12 weeks.

Under the rules of the Financial Ombudsman Service, I'm required to ask LL and Mr R to accept or reject my decision before 10 January 2023.

Andrew Fraser
Ombudsman