

## **The complaint**

W complains Zurich Insurance Plc's handled its residential property owners' insurance claim poorly.

W and Zurich have been represented by agents for the claim and complaint. For simplicity I've referred to the agents' actions as being those of W or Zurich.

## **What happened**

In June 2021 fire damaged a commercial unit leased by W. It claimed on a Zurich residential property owners' insurance policy. The claim was accepted. W said it would prefer a cash settlement, but Zurich wished to reinstate. W tried to progress the claim through Zurich's claims agent.

In November 2021 Zurich responded to a complaint from W. It had been unhappy with various aspects of how Zurich was handling the claim. Zurich's response said due to the circumstances, it was correct not to provide a cash settlement. It added it wouldn't usually offer a settlement at £30,000 without a detailed scope of works. Zurich added it's only liable for reinstating the property to its layout before the loss – not for a new layout for any future tenant. To progress the claim it proposed reinstatement by one its appointed contractors or staged payments based on an approved independent scope of works. Zurich accepted there had been avoidable delays. It paid W £200 compensation in recognition.

In March 2022, frustrated at a continued lack of progress with the claim and contact from Zurich, W came to this service. It said Zurich had repeatedly failed to provide details of its appointed contractors, so it was unable to progress the repairs to tender. It asked these be provided or a cash settlement paid. It also asked that lost of rent, arising from Zurich's delays, be paid.

In October 2022 our investigator recommended Zurich settle the claim by a single cash payment. W accepted that, Zurich didn't. It said due to the circumstances of the claim - arson following a period of seven years unoccupied - it was correct to offer staged payments following completion of works. W then said it would also accept as a resolution for Zurich to provide its list of contractors to enable a tender process. It said still wanted loss of rent to be paid by Zurich. After some encouragement from this service, in February 2023, Zurich eventually provided the list of contractors to W. W then, via a surveyor, undertook a tender process involving some of those contractors.

In March 2023 our investigator found it wouldn't be fair to require Zurich it to cover any loss of rent. Because the property had been unoccupied for seven years before the fire, he was of the opinion it couldn't be guaranteed it would have been let out more recently if not for Zurich's delays. Instead he recommended Zurich pay W £500 compensation to recognise the inconvenience caused by its delay. W didn't accept that, so the complaint was passed to me to decide.

In April 2023 W explained Zurich was again delaying the claim. This service made attempts to encourage it to progress the claim or provide an explanation for its inaction. Unfortunately its failed to do either.

In early May 2023 I explained to Zurich and W how I intended to resolve the complaint. I said I didn't intend to require Zurich to cover any loss of rent, but I would require it to cash settle W's claim and pay £750 compensation. My reasoning for these decisions forms part of this final decision so I've copied it in below. I also invited Zurich and W to provide any final information they would like me to consider. Zurich failed to respond. I've addressed W's response below.

### ***My provisional findings***

*Zurich's previously caused significant delay to this claim. Its claims agent repeatedly failed to provide preferred contractor information to W. This stopped the claim from progressing and repairs taking place. As a result, our investigator said Zurich should cash settle the claim.*

*After pressure from this service Zurich then arranged for its loss adjuster to provide the relevant information. W was satisfied with this as it allowed progress of the claim. W started a tender process. It says it's received only one quote from Zurich's lists of contractors. Others declined to bid. W arranged a second quote from a contractor it's familiar with.*

*I've seen an email showing W explained to Zurich on 27 March 2023 that only two prices had been returned. Zurich was asked if it wished to proceed based on these – or if it wished to allow a third contractor a further two weeks to quote. By 27 April 2023 Zurich hadn't responded.*

*As W points out, Zurich is again failing to progress the claim. Its failure to respond risks the two quotes expiring. That could require the tender process to be repeated. That would inevitably delay the claim further. Since 20 April 2023 this service has tried to contact Zurich to request it engage with W. We haven't received a response.*

*Zurich's repeatedly frustrating W's reasonable efforts to get its property repaired for use. This has happened over an extended period. I note Zurich's explanation for why it wishes to approach the claim with caution. But its handling of this claim falls well short of reasonable. And it's failed to explain why. So I now intend to require it to cash settle the claim based on the lowest of the two quotes received by W.*

*I will require simple interest, at 8%, to be applied to the settlement. The interest will be applied from seven days after this service notifies it of W's acceptance of my final decision.*

*W would like Zurich to cover loss of rent for the unit. It feels the insurer's delay have stopped it from letting the property. I've considered W's arguments for this, but I don't intend to require Zurich to cover any loss of rent.*

*It seems reasonable for Zurich to decline a loss of rent claim against the terms of the cover. These exclude claims for tenancies of less than six months. There wasn't a tenancy in place at all at the time of loss.*

*I've also considered if Zurich should cover loss of rent outside of the policy terms. For me to say it should I'd need to be persuaded its failures, (unnecessary delays and so on) have most likely caused W a loss of rental income.*

*I've thought about W's explanation for why the property was unoccupied for around seven years before the loss. It says that was a strategic decision. And I've considered what it's said about the improved desirability of commercial units in the area. But overall I'm not persuaded that it's most likely the property would have been let were it not for Zurich's poor handling of the claim. So I can't fairly require Zurich to cover any loss of rent.*

*I agree with the investigator that Zurich's repeated delays have caused W unnecessary inconvenience over a significant period. It's had to deal with the claim for a much longer period than should be necessary. So I intend to require Zurich to pay W £750 compensation.*

### **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 response to my provisional findings W said its happy to accept a cash settlement as a resolution. Zurich's been provided with the quotes by W. So it's had fair opportunity to raise any objections. It hasn't done so. That means I don't see any reason to change the position set out above. It means I require Zurich to pay a cash settlement for the reinstatement work. It will need to do that based on the lowest of the two quotes – at £59,556.

For the reasons set out above Zurich will need to add simple interest - at 8%. This will apply seven days from this service notifying it of W's acceptance of this final decision to the date of settlement. If it pays the settlement before the seven days no interest need be applied.

The settlement of £59,556 doesn't include VAT. W's said it expects Zurich to cover any VAT element of the reinstatement costs. It's my understanding that if W's VAT registered it should be able to reclaim VAT paid from HMRC. In those circumstances I wouldn't expect Zurich to cover any VAT element.

However, if W shows Zurich it isn't VAT registered, or can't reclaim or avoid VAT for another reason (for example because of its charitable status), Zurich will need to cover VAT paid on the reinstatement works – up to a maximum of 20% of the £59,556. It will only need to do this if W can evidence the tax having been paid for relevant reinstatement works.

W also asked that Zurich cover the cost of its surveyor fee. It says the insurer agreed to this previously. It's provided an email that appears to support this – although no specific amount is given. This request has come as a late addition to the complaint. Zurich hasn't had an opportunity to provide its opinion. Providing that would inevitably delay the resolution of the complaint and claim further. For those reasons I'm not going to make a finding or award for the surveyor fee here. But I'd hope Zurich honours any agreement it made on this.

Neither Zurich or W's provided anything to change my position on the loss of rent or compensation. So I won't be requiring the insurer to cover any loss of rent – but it will need to pay £750 compensation.

### **My final decision**

For the reasons given above, I require Zurich Insurance Plc to:

- cash settle W's claim by paying it £59,556. It will need to apply simple interest to this amount at 8%. This will apply from seven days of it being notified of W's acceptance of this final decision until the date of settlement.
- reimburse W, in line with that set out above, any VAT shown to have been paid for the relevant reinstatement works (but only if W demonstrates it isn't VAT registered or otherwise can't reclaim or avoid VAT) and
- pay W £750 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask W to accept or reject my decision before 8 June 2023.

Daniel Martin  
**Ombudsman**