

The complaint

Mr M complains that Allianz Insurance Plc has treated him unfairly when handling a claim made on his buildings insurance policy.

What happened

Mr M lives in an apartment in a building with a number of different apartments. In December 2018, Mr M discovered an escape of water in his property and notified the property factor. Allianz was notified of the claim in January 2019 and it appointed its loss adjusters to assess the damage.

Our investigator set out in some detail what happened between the claim being raised and the complaint being brought to this service in August 2021. Two final responses had been issued by Allianz, one in May 2020 and another in July 2021 after Mr M complained about the handling of the claim. Allianz consented to us considering everything that had happened up until its later response despite a complaint not being brought to this service sooner.

Mr M has brought his complaint to us with the assistance of a professional representative, who he appointed as his own loss adjuster for the claim in March 2020 after becoming frustrated with Allianz and its handling of the claim. For ease of reference, I've referred to the actions of Mr M and his representative, collectively as Mr M unless stated.

The events are well known to Mr M and Allianz so I've not set out everything here. But the complaint has been made because Mr M feels Allianz has failed to progress the claim as quickly as it could and because Allianz has declined to cover some of the damage claimed for. This has resulted in Mr M and his family spending more time in alternative accommodation (AA) than they feel they should have and has delayed the repairs being completed with disputes over the final damaged items.

Mr M would like Allianz to accept and cover all items of damage claimed for and has asked Allianz to cover the fees incurred when he appointed his own loss adjuster. He said he only needed to appoint his representative because of the failings in the claim handling by Allianz and feels it is fair that it covers this cost.

Mr M has questioned whether Allianz has acted fairly when it declined to cover damage to the windows in the property. He feels this damage was caused as a result of the water ingress but Allianz has disputed this is the primary cause – it feels any damage to these is the result of pre-existing issues and the condition of the windows.

No photos of the windows were taken by Allianz's loss adjuster when it first assessed the damage at the property and Allianz has said this is because the loss adjuster didn't see any damage to them and because of this, didn't photograph and document this. Mr M and his representative have questioned the logic on both why the windows were not photographed to show the pre-existing condition and how the damage isn't consistent with condensation in a damp building over a number of months and years.

Allianz has maintained that it doesn't agree the damage is because of the escape of water.

But, it has agreed to cover the cost of refurbishing the window frames in the kitchen and lounge as an offer to bring the claim to a close. It doesn't think these need replacing and it feels this is a fair offer. This is together with its offer to cover the replacement cost of the bedroom window

Our investigator looked at the complaint and said she didn't think Allianz has done anything wrong as she believed the delays on the claim and its settlement couldn't be fairly attributed to Allianz. The property factor needed to repair the leak before Mr M's apartment could be repaired. And she felt it had made a fair claim decision when declining to cover the replacement cost of the windows as the refurbishment costs should provide a lasting and effective repair.

Mr M disagreed with the outcome. He felt Allianz had failed in its duties set out by the Financial Conduct Authority (FCA) which placed him under undue financial and emotional distress and Allianz failed to mitigate the damage to the property, adding to this. Mr M feels Allianz had access to the property after he was moved to alternative accommodation but did nothing to reduce the risk of water ingress at this point and therefore allowed the damage to continue.

He explained again that Allianz has failed to support its position on the windows. He doesn't feel that it is fair to only offer to refurbish these when it has been unable to show there was pre-existing damage before. In the absence of this, he feels covering the replacement costs is fair.

Our investigators opinion didn't change so the complaint was passed to me for decision.

I issued a provisional decision on Mr M's complaint at the end of November 2022. I explained I was planning on upholding Mr M's complaint in part and set out the reasons why. I said the following:

I'm planning on upholding this complaint in part. I know Mr M will be disappointed by this, but I've set out below why I don't think it's fair to ask Allianz to cover everything he has asked for.

Mr M's complaint has two main elements to it, the complaint about delays and the impact of the claim's progression on Mr M and the damage accepted under the claim by Allianz. I'll deal with each in turn.

Delays

It's understandable why Mr M is unhappy with the time it has taken for his property to be repaired and his claim settled. The initial escape of water was noticed in December 2018 and it wasn't until May 2021 that the apartment received its drying certificate and internal works to complete the damage could be started. But Allianz had very little control over the work that needed to take place to fix the leak ahead of it being able to address the damage in Mr M's flat and make it's offer to settle the claim for the internal damage.

The trace and repair of the leak is the responsibility of the property factor. It is clear that identifying the cause of the leak and subsequently having this repaired took too long. And it may well be that this added to the level of damage in Mr M's flat. But I don't think Allianz could have done more with regards to speeding up the property factor.

I know Mr M feels Allianz could have done more to mitigate the damage and I've thought about this. After it was first notified of the claim, Mr M and his wife continued to live in the property. Although there was damage evident, the bathroom and kitchen remained usable

and it was deemed acceptable for them to stay living there. It wasn't until later that it was agreed that Mr M and his wife would need to be moved to AA.

At this point, Allianz believed the leak would be fixed soon after Mr M was moved out and I don't think it is reasonable to have expected it to do anything else – it was expecting to be able to start the drying and repair process soon after the move date and didn't expect that this wouldn't be able to take place for almost 12 months. This delay wasn't caused by Allianz and it did what it could to reduce the need for this wait.

I think in contrast to Allianz adding to delays, it recognised these being caused as the property factor was waiting on funds to be collected to authorise the repair works. It tried to help speed this up by offering to cover any shortfall on the collection of the repair costs from the property owners. I appreciate this was towards the end of this process and was the last thing stopping the leak being fixed after it had been identified, but I think it shows how Allianz was trying to help progress the claim overall.

Ultimately, a delay caused to the progression of the claim would only have added to the claims costs for Allianz, as the lack of action will have resulted in further deterioration of the property. It is clear this happened with the scope of work and damage needing to be amended when the repair work could commence. But with the need to wait for the leak to be fixed first before any repair work could be complete, I'm not sure what could have been done beyond basic patching in the property to reduce/mitigate the risk of this deterioration. I understand why Mr M is unhappy not to have seen any active steps taken by Allianz to mitigate the damage but I don't think Mr M has lost out as a result. And I think any further damage as a result of the water ingress is covered under the claim.

Once the property was certified as dry after the leak was fixed, it looks like Allianz was proactive with the claim handling and was doing what it could to progress and bring the claim to a conclusion as soon as possible. Overall, I don't think it has added any significant delay to the claim and with so much outside of it's control, I think it's acted fairly.

Settlement offered

When the complaint was brought to this service, all items contested had been settled, bar the damage to the lounge and kitchen windows. Allianz at this point still disagreed that the damage was as a result of the escape of water. But it said with a view to settle the claim and progress this, it was happy to cover the cost of the window's refurbishment.

Allianz's loss adjuster assessed the property after it was first notified of the claim and failed to take any pictures to confirm the damage to the windows and their frames. Mr M feels this should have been done if Allianz is to rely on the pre-existing condition of the frame being the cause of the damage. I agree, the absence of this and any mention of the condition of the windows in the first report completed on the property after the escape of water indicates there was nothing of note with the windows. And if the condition of these was such that Allianz's loss adjuster felt later damage could be attributed to their general condition and wear and tear, I would have expected this to have been highlighted. But this alone doesn't indicate the offer to settle the claim is unfair or unreasonable.

As I've said, despite not accepting the cause of damage is attributable to the escape of water, Allianz has offered to cover the cost of refurbishing the windows, so I've considered whether I think this is fair.

In November 2019 a report was completed on the property to identify the damage caused as a result of the leak, with a schedule of work set out together with costs for this. It didn't specify whether the damage referenced on the windows in Mr M's flat was in the bedroom

(which Allianz has accepted within the claim) or whether it related to the lounge and kitchen. But with the cost being relatively low and the photos of the damage provided only highlighting damage to the bedroom window, I think it relates only to this.

On 29 November 2019, a quote was provided for the repair works, produced for the property factor. This highlighted that the bedroom window needed replacing and work was required to the lounge window:

“Allow a PC sum of £500 to repair window with decayed timber frame”

No comment on the cause of damage is made in the quote, but it is clear damage was identified with the lounge window at this point.

In June 2020, Mr M had a report produced to highlight the damage in his property – at this time the cause of the escape of water was still not identified. But this report said the following in relation to the internal condition of the property and the windows in the kitchen/ lounge.

“The windows are visibly damaged and swollen due to extreme moisture content in the room for a prolonged period. As with the bedroom, there is a chance of the pain falling and causing injury.”

In August 2020, a cause of damage report was completed on Mr M's property. This identified the cause of the damage and highlighted “extensive water damage to the bedroom ceiling at the time of inspection”. But with it being focused on the cause of damage and not the level of damage, it provided little else to confirm whether the windows in the kitchen and lounge were affected by the water ingress at this point.

On 20 November 2020, Allianz had a survey completed on the property which assessed the level of damage at this time. In relation to the window frames in the lounge and kitchen it said the following:

“Clear issues with water ingress at bay window. Relates to external mastic seal and not balcony. Window frames are generally in poor condition relating to expected condensation from single glazing and lack of maintenance and ventilation. No works to rectify this are included in our Budget Costs.”

The report was completed almost two years after the initial escape of water was reported to Allianz and it highlights concerns about the windows seal. It also gives concerns about the design of the window and highlights that together with the external mastic seal causing issues, condensation would be higher with the single pane window which has added to water ingress in the frame. It doesn't attribute any damage to the escape of water.

Allianz created a scope of work for the property in January 2021 and didn't believe any damage to the lounge/kitchen window was attributed to the escape of water. It didn't provide any costs for any work to these within the scope.

In March 2021, Mr M had the damage assessed with a report provided to his loss adjuster. This report said damage had been caused to the lounge/kitchen window. It said the following:

“The wooden window frames in the lounge have rotted with water ingress. The windows will need the frames replaced.”

I think overall, it is clear the conditions of the windows in the lounge/kitchen had deteriorated

over the lifetime of this claim. It is less clear though on whether this was the result of the moisture levels in the property as a whole because of the ingress of water in the bedroom, or whether there was another underlying issue which was simply highlighted. But the delays in the claim being able to be settled (which were outside of Allianz's control) because of the delay in the leak repair, have certainly not helped the situation overall.

While I understand the stance taken by Allianz with its loss adjuster highlighting a concern over the window and its mastic seal, I don't think it's provided enough to show this was the cause of the damage. No concerns were raised or highlighted in its initial reports and I think a lack of evidence here means it would be unfair to simply exclude the damage to the windows. And based on how they've been described, I'm not persuaded that refurbishing these will produce an effective and lasting repair. Damage was first noted with rot in the window frame as early as November 2019 and this was 18 months before the property was able to be dried and the condition continued to deteriorate.

Mr M has provided a number of reports which highlight concerns about the total moisture content in the property and this was attributed to damage in the bathroom which was previously thought to be unrelated to the escape of water. With this in mind, I'm not persuaded that Allianz has acted fairly by only offering to cover the refurbishment costs of the windows.

I think it is fair that Allianz reconsider the damage to the windows in line with the recommendation made in the report provided to Mr M's loss adjuster in March 2021, Allianz should cover the replacement cost of the window frames.

Mr M has also asked that Allianz cover the fees he's incurred when appointing his own loss adjuster. He's said he needed to appoint his loss adjuster after being unable to deal with the stress of the claim himself after trying for a year when it was first raised.

I understand how difficult this claim situation must have been, Mr M was left in a position of relative helplessness as he waited for the property factor to trace and repair the leak to the building which was causing damage to his property. During this time he and his wife continued to live in the property even though water was entering it every time it rained.

While the property was still habitable as it had working kitchen and bathroom facilities, I think it is clear this situation was far from ideal. But I don't think this means Allianz should cover the professional fees Mr M has incurred when appointing his own loss adjuster. He took this step to reduce the stress of the claim and this was his choice. But Allianz would have continued to deal with him directly and until the property factor had completed the repair work on the property, the interactions would have likely been updates only.

As I've said though, the condition of the property wasn't at an acceptable level for the length of time that Mr M and his wife needed to continue to stay in it for. It should have become clear after the delays in the leak being repaired that continuing to stay in the property was adding undue distress to Mr M and his wife and I think it is fair that Allianz recognise the impact of it not looking to provide alternative accommodation sooner for Mr M and his wife. I think this would have been a reasonable step to take based on the ongoing leak and impact of this.

With this in mind, I'm planning on asking Allianz to pay Mr M £500 for the distress and inconvenience caused when it failed to recognise that alternative accommodation should have been provided sooner.

I plan on upholding Mr M's complaint and will be asking Allianz to consider the replacement cost of the window frame for the lounge and kitchen within its settlement offer. If Mr M has

already made this repair at his own cost, on receipt of invoice and receipt of payment, Allianz should refund Mr M this amount together with simple interest at 8%. And Allianz should pay Mr M £500 for the distress and inconvenience caused.

Both Mr M and Allianz responded to say they had no further comments and accepted the outcome of my provisional decision.

Allianz said it believed the windows had already been replaced and that it had already asked its loss adjuster to request the cost of this work from Mr M.

As both Allianz and Mr M have responded, the complaint has been passed back to me to consider again and to issue my final decision.

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.

Having reviewed everything again, I've decided to uphold Mr M's complaint for the reasons set out in my provisional findings included above. Neither Allianz or Mr M have made any further comments and I see no reason to depart from the provisional decision.

Putting things right

Allianz Insurance Plc should consider the replacement cost of the window frame for the lounge and kitchen within its settlement offer.

If Mr M has already made this repair at his own cost, on receipt of invoice and receipt, Allianz should refund Mr M this amount together with simple interest at 8%. If Allianz deems it necessary to deduct tax from this payment, it should upon request from Mr M, provide a statement to confirm the amount of tax deducted.

Allianz should also pay Mr M £500 for the distress and inconvenience caused.

My final decision

For the reasons set out in the provisional decision included within the background of this decision, I uphold Mr M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 17 January 2023.

Thomas Brissenden
Ombudsman