

The complaint

Mr D has complained about his property insurer Ageas Insurance Limited regarding flooring which was damaged by a fire at his home and a shortfall in reimbursement for his cost incurred living elsewhere.

What happened

There was a fire at Mr D's home in November 2017. The family were moved into a hotel for a while and then a let property was organised, with the family moving there in December 2017.

The work needed at the property was significant. Including a substantial strip-out and drying programme. Mr D had appointed a loss assessor at the outset and the loss assessor had appointed a surveyor – agreed to by Ageas. Ageas' contractor handled the strip-out and drying works. Then, following a tender process, Mr D's preferred contractor was awarded the contract for reinstatement work. Towards the end of 2018, with the family still living at the property organised in December 2017, with work to reinstate the home having begun in October 2018, it was expected that the work would complete by the end of March 2019. Ageas' loss adjuster therefore agreed to cover Mr D's cost for living elsewhere for a further four months, from the end of the previous lease on 10 December 2018 to 9 April 2019.

In January 2019 a report was provided showing that the kitchen was beyond repair. Ageas began considering its liability for the kitchen and in early February 2019 the loss assessor chased a reply. The assessor pointed out that, from ordering, there was a 12-week lead time for the kitchen to be made. Ageas wanted to review its liability for the kitchen further though and it was some while before any agreement regarding the kitchen was reached. The kitchen was then ordered on 20 May 2019. The kitchen installation began in September and work at the home was completed by late October 2019.

In the meantime the period, over which rent for the home the family were living in, had ended. By June rent had not been paid for two months (due 10 April and 10 May) and Mr D was facing eviction. Ageas later made payment to cover the rent charged until 29 June 2019. But said it wouldn't pay for anything further. Mr D had actually incurred charges up until December 2019. He said that when he'd faced eviction he had to act swiftly to secure new accommodation and had to take a property where rent was due to/through December 2019. Mr D said he wouldn't have had any extra costs if Ageas had not caused delays to the reinstatement works.

Mr D said Ageas had constantly delayed agreeing to variations in the works, such as for the kitchen. He also said it had delayed payments at times too, such that, at one stage, the contractor walked off site. He felt that if the claim had been handled properly, the work could have concluded by June 2019 at the latest. Ageas said the limit for alternative accommodation (AA) had been reached and exceeded in January 2019. But it accepted there had been some delays – which had prompted it to cover AA costs to 29 June 2019. It noted though that there was a distinct lack of any work having been done at the property before April 2019, and the contractor, when it walked off-site, would never have had payment by that time anyway. Even if they should have done, Ageas said, the fact that nothing substantial had been done meant there was always going to have been a delay. Ageas said this specific subject was discussed with the loss assessor at a meeting and it was agreed that whilst it would cover AA costs until June 2019, the loss assessor would tell Mr D that he would be responsible for any costs thereafter.

During the course of the claim an issue also arose about flooring which needed replacing in the property. Ageas said it would only contribute to the replacement cost, rather than cover all of it. It said this was because not all of the flooring was damaged. Mr D was not happy with that.

Mr D complained to us. He said he wanted Ageas to pay him the £3,582.91 it had, effectively, withheld from the flooring settlement. He also asked it reimburse him £35,216.65 being the cost he'd incurred for alternative accommodation into December 2019.

Our Investigator felt that Ageas had settled things fairly and reasonably. So she didn't recommend that it pay anything more to Mr D. Mr D was unhappy. His complaint was passed to me for an Ombudsman's consideration.

I felt Ageas should be paying for the flooring, because the flooring had been one continuous piece with no break. I also felt Ageas should be looking to at least contribute to Mr D's AA costs, because there had been delays and the policy wording also appeared to support that a further payment was due. I had our Investigator contact Ageas to see if, in respect of either of these points, it was prepared to make an offer of settlement. Ageas said it was not.

Regarding the flooring, Ageas said Mr D's loss assessor had agreed to its position on the flooring in a meeting. Ageas said it, therefore, failed to see why an agreement would have been made if there were indeed no natural breaks in the flooring.

Turning to the alternative accommodation, Ageas only replied regarding the comments I had made about what the policy seemed to allow. In that respect Ageas said the policy defines that the maximum claim limit is the most that will be paid regarding any one claim – and this is reflected and shown in the policy schedule – which here totalled £70,000, and which had been exceeded.

As Ageas' wasn't minded to make any offer of settlement, the complaint came back to me for further review. Having reviewed it I felt Ageas should be paying the outstanding amount for the flooring, plus interest* and £500 compensation. I also felt Ageas should be paying a further £23,557.58, plus interest* to Mr D in respect of AA costs. So I issued a provisional decision, my findings of which were:

"Flooring

Despite Ageas' seemingly carefully worded response to my enquiry, photos of the property before repairs began show there were no natural breaks in the flooring – as shown in its report dated 3 January 2018. And whilst its report of 27 December 2017 recorded that Mr D's loss assessor agreed to it paying only 50% towards the undamaged flooring – the report

immediately following that (3 January 2018) shows this point was actually in dispute. And it is clear to me that it remained in dispute throughout the rest of the claim. For me, this is simple, Mr D had flooring that ran throughout previously, he is reasonably entitled to replacement of the same. His reported outstanding cost for this is £3,582.91. If he shows proof of that cost to Ageas, it should pay that sum, plus interest from the date it was paid by Mr D until settlement is made.*

Alternative Accommodation

From what I have seen a significant part of the reinstatement programme was delayed – the kitchen. It was known in early 2019 that the kitchen would need replacing, and that there would be a 12-week lead time for it from the date of order. My review of the file showed that this replacement wasn't fully agreed until May 2019. I've said so to Ageas – and it has not challenged my findings in this respect.

Without a working kitchen in place the home could not be lived in. The kitchen was ordered in May and reinstatement of it began in late September 2019 – roughly in line with the expected and foreseen 12-week lead time. It was felt that that work would only take a couple of weeks to complete and whilst I don't know for sure exactly when that happened, Mr D and his family were reportedly preparing to move home on 31 October 2019.

I think the time to fully agree the replacement of the kitchen amounted to Ageas causing an unreasonable delay in the claim. I think this could and should have been avoided. And if it had, then the kitchen would likely have been available for its reinstatement to commence in June 2019. So I think, but for Ageas' unreasonable delays, Mr D would have been able to move home in June 2019 – by the end of that month at the latest.

Ageas's file shows that it ultimately paid Mr D's AA costs until the 29 June 2019. But it did not pay those costs at the time rent was due. Rather, Ageas had agreed to pay the rent for the property Mr D was staying in until 9 April 2019. When that period came to an end Ageas initially refused to pay anything further. And by June 2019 Mr D was facing eviction. Mr D clearly felt Ageas should be paying his AA costs. However, he could not stay in the property he had been living in as rent was overdue and he could not move home due to the uninhabitable state of the property. So Mr D moved to another rental property. He reports that he had to sign a six-month lease and so was tied into paying rent at that property until December 2019, even though he moved home at the end of October 2019.

I can see that following Mr D leaving the property he had lived in during the majority of the claim, he told Ageas the landlord has issued proceedings against him for non-payment of rent. In August 2019, Ageas' loss adjuster's files show that a payment reflecting the outstanding sums through to 29 June 2019 was paid by it directly to the landlord for the property. And that the letting agent reported that no proceedings had been issued against Mr D for the outstanding sum.

Mr D's loss assessor said Mr D is seeking a payment of £35,216.65 from Ageas for his losses incurred during the period April to December 2019. I'm not persuaded, given what I've found above, about Ageas paying rent until 29 June 2019, that it is reasonably liable for that total sum. I expect Ageas would also argue that it is not liable for costs beyond 31 October 2019 when Mr D moved home. But I think he was under significant pressure in June 2019 to find somewhere to live. And he knew that would be needed for several months at least. So I think Mr D likely acted reasonably then to secure a six-month short term let. Which means I don't think Ageas can reasonably decline liability for the rental costs incurred by Mr D in November and December 2019.

The rent Ageas paid for 10 April to 29 June 2019 totalled £11,659.07. Deducting this from Mr D's requested cost for that period April to December 2019 leaves a total of £23,557.58. For a six-month period that breaks down to £3,926.26 a month. Which is less than the sum Ageas was paying up until 29 June 2019, which was £4,333.30 per month.

Therefore, based on the delay regarding the kitchen alone and the sums paid by Ageas and reportedly incurred by Mr D, I think Ageas should be paying Mr D a further £23,557.58. with interest being applied on each monthly sum of £3,926.26, starting with the first of these sums on 30 June 2019, and the second on 30 July 2019, and so on thereafter, each until settlement is made by Ageas.

Now I know that Ageas will argue that it met its policy liability for AA with payments it had made to January 2019. And that by paying rent until June 2019 its liability was exceeded. But when an insurer delays a claim, as I've found Ageas did here, it can't fairly and reasonably rely on the policy terms to avoid paying further sums due on account of its delay. But, in any event, I don't think Ageas has correctly applied its policy wording here.

The policy wording applicable here states that the most the insurer will pay for AA, in any one period of insurance, is that set out in the schedule. Which, to me, means that the sum Mr D was entitled to for AA costs renewed each year with the policy – because each renewal is a different period of insurance. And the schedule is issued in respect of that year's cover. I know Ageas feels that this is incorrect. Ageas says the schedule shows the maximum claim limit for each section of cover, including AA. And that the policy defines the term "maximum claim limit" to be the most the insurer will pay under any one claim. So Ageas feels that as the maximum limit is applied to each claim – and here there is only one claim – its limit of liability for AA costs does not renew each year. I think Ageas is wrong in this respect.

In my view the specific wording that applies for the AA cover does not restrict Ageas' liability to the "maximum claim limit". Despite what the schedule says, the policy wording for the AA cover does not refer to it being dealt with in line with the policy definition of "maximum claim limit". Rather the policy chooses to refer to Ageas' liability for AA in reference to what it will pay during "any one period of insurance".

So the policy wording, in my view, widens the cover available to the policyholder when it comes to AA from that which may apply elsewhere, to other sections of cover in the policy, where the "maximum claim limit" applies. If Ageas should further disagree with this, I'd think that likely then means the policy, in this respect is unclear. As Ageas is aware, if a policy is unclear, then the interpretation that is most favourable to the policyholder is seen to apply.

All of which, in my view, means that Mr D, in respect of this claim for fire, was entitled to cover for costs up to £70,000 during each policy year over which he and his family could not live in their home due to the insured damaged. The policy renewed on 13 January each year – so as of 29 June 2019, assuming a spend of £4,333.30 each month starting on 10 January just before the renewal date, Ageas had paid £24,568.97, for Mr D to live elsewhere. Which meant that Mr D still had an entitlement under the policy of around £45,000 for the remainder of that period of insurance/policy year. Based on Mr D's reported costs, that was more than sufficient to cover his outlay incurred when a new six-month let had to be arranged in June 2019.

In short, I don't think it was fair or reasonable for Ageas to say its liability for AA costs was met in January 2019 and exceeded by its payments for rent up to 29 June 2019. Therefore, even if Ageas disagrees with what I have said about it delaying the claim, I think it should still be meeting Mr D's reasonable costs for living elsewhere under the policy. And, as I've said above, I think that reasonable cost is £23,557.58 and Ageas should pay this sum, plus interest* (as also mentioned and explained above).

Compensation

I realise this has been a difficult time for Mr D. I accept that the reinstatement of his home was unreasonably delayed by Ageas by around four to five months. And that Mr D had to move out of his AA, and find somewhere else to live, under somewhat difficult circumstances. I think Ageas should pay Mr D £500 compensation for the distress and inconvenience it has caused him."

Mr D accepted my findings. Ageas objected to them in part. But it did not object to or make any comment on my findings on the flooring or compensation.

Ageas' focus fell on my findings about its liability for further AA costs. In response to those findings Ageas included a quote from a senior member of staff who had attended a meeting in 2020 with various claim representatives, including Mr D's loss assessor. In respect of that meeting the senior staff member recalled what was discussed about the works, delays and liability for further costs, and offered his view about how that all relates to the provisional findings issued. In summary:

- All in attendance, including Mr D's representatives, agreed that the amount, over the policy limit, which Ageas had paid to that date, was reasonable.
- All agreed that the works, including the kitchen, should have completed by the end of June 2019.
- As that fact and agreement has not changed, it can't now be agreed that Ageas is responsible for more costs.
- It is being overlooked that in May 2019 the repairs in the rest of the house had not been progressed – so little had been done that the work could not possibly have been completed by the end of June 2019.
- Those works weren't delayed because of the kitchen, they were delayed by contractors employed by Mr D/his loss assessor.
- In any event, notification of the damage to the kitchen was delayed, only being raised in January 2019; it should have been raised earlier, meaning it could have been considered and ordered earlier. This delay – by Mr D's contractor/loss assessor – was a contributory factor to the kitchen not being ordered until May 2019.
- Mr D's contractor and loss assessor caused delays between October 2018 to April 2019 and it has already contributed to extra AA costs to the end of June – so making it pay more is not fair and reasonable.

In respect of my findings about the policy wording; Ageas also objected to what I'd said. Ageas felt I had disregarded its explanation about what the policy schedule shows. It said the detail in the schedule is specifically added to "aid clarification and interpretation of the cover". And, Ageas said, the policy wording contains a clear direction to check the policy schedule to see the sums applicable.

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 Mr D has accepted my findings and Ageas has not objected to what I said regarding the flooring and compensation, I won't discuss those issues further. Other than to confirm that my view on them has not changed and my related provisional findings are now those of this my final decision.

I can understand that Ageas, with its senior member's recollection of the meeting in 2020, would object to my findings regarding AA costs. But I was aware of Ageas' report of that meeting, although not that it had come from its senior staff member, when I issued my provisional decision – some details of the agreements reportedly reached in it were, and still remain, in my background above. What was of note for me though, when making my provisional decision, in reviewing Ageas' file, was that whilst this meeting was often mentioned, no minutes from it were provided for my consideration. And nor, despite the seemingly crucial decisions that were made regarding Mr D's, as opposed to Ageas', liability for not insubstantial sums of money, was there any sign of any written agreement being made of the position reportedly reached. And whilst Ageas' has a seemingly clear view of what was agreed in that meeting, Mr D and his loss assessor seem to recall it differently, because a request for further payment, resulting in a complaint, was made.

But, in light of the comments reportedly coming from a senior member of Ageas' staff, who has confirmed they were present at the meeting, I've reviewed my findings. However, my view hasn't changed.

It is possible that this claim could have been handled better by all of those involved, that delays had occurred earlier in the claim which Ageas was not responsible for, and that if these had been avoided the claim would have concluded earlier. But the fact of the matter is that Ageas' delays in early 2019 had, in my view, an ultimate and final impact on the claim. A property without a kitchen, regardless of the rest of the state of the home, is uninhabitable. Ageas wasn't responsible for progress of the repairs in general and couldn't prevent Mr D's contractor and/or loss assessor causing delays – but Ageas was responsible for its own actions. And, I've found that in early 2019 it did not do enough to progress the claim for the kitchen, such that its order and, as a result, its installation was delayed. If that had been avoided and the property was still otherwise uninhabitable, then my view might well have been different. But, in my view, as a direct result of Ageas' delays, the kitchen installation couldn't begin until September 2019. This caused Mr D to fairly and reasonably need somewhere else to stay. It's not fair and reasonable that he bears the costs for the results of Ageas' delay.

Whilst I note Ageas' explanation of the policy wording, I do think it's reply largely demonstrates that, when taking the policy documents as a whole, a lack of clarity exists. In short for claims which span more than one period of insurance – which a single claim for AA often does – referring to liability in terms of both what is due in any one period of insurance and the amount due under any one claim, causes a lack of clarity. However, as my view on the delays hasn't changed, my view on Ageas' policy wording has become less important.

I appreciate that Ageas will be disappointed with my final view on this, however, my thoughts have not changed from those set out provisionally. As such, and having considered Ageas' response to my provisional findings, I can confirm they have not changed and they, along with my comments here, are now the findings of this my final decision.

Putting things right

I require Ageas to pay Mr D:

- £3,582.91 for flooring, plus interest* from the date Mr D paid this sum until settlement is made – subject to him providing proof of the same.
- £23,557.58 for six-months of reported AA costs incurred between 30 June 2019 and 29 December 2019, plus interest* on each monthly sum of £3,926.26, applicable on each individually, beginning for the first sum on 30 June 2019, the second on 30 July, and so on, until settlement is made. Subject to Mr D providing proof of his outlay.
- £500 compensation for distress and inconvenience.

*Interest is at a rate of 8% simple per year and paid on the amounts specified and from/to the dates stated. HM Revenue & Customs requires Ageas to take off tax from this interest. If asked, it must give Mr D a certificate showing how much tax it's taken off.

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 D to accept or reject my decision before 18 January 2023.

Fiona Robinson
Ombudsman