

The complaint

Mr C complains that Zurich Insurance PLC has unfairly refused to pay a claim in full under his property owners insurance policy.

Where I refer to Zurich, this includes the actions of its agents and claims handlers for which it takes responsibility.

What happened

Mr C is the leaseholder of an apartment which he lets out.

In September 2020, the apartment was flooded by a communal waste pipe leaving it uninhabitable until February 2022 when the repairs were completed. Mr C made a claim under his insurance policy, which Zurich accepted.

Zurich offered to pay 11 months loss of rent under the policy. It says, whilst the apartment was uninhabitable for 17 months, six months of this was due to delays by Mr C or his contractors which it isn't responsible for.

Mr C didn't think this was fair. He raised a complaint and said Zurich should pay the remainder of the lost rent as well as his council tax. He was also unhappy that Zurich requested information from his letting agents, rather than him directly.

Zurich maintained its decision to only pay 11 months' rent, but it offered £350 compensation to recognise that it was responsible for some minor delays and that it should've clarified whether Mr C or his letting agents were dealing with the claim. Mr C remained unhappy, so he contacted our service.

Our Investigator didn't think Zurich had acted in line with the policy terms or treated Mr C fairly by refusing to pay his lost rent claim in full. So she recommended it pay an additional six months rent. But she was satisfied that the policy doesn't cover council tax.

As Zurich didn't agree, the complaint has been passed to me to decide.

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.

When doing so, I've taken into account the relevant rules and regulations, and good industry practice. In particular the Financial Conduct Authority's (FCA) Insurance Conduct of Business Sourcebook (ICOBS) requires businesses to handle claims promptly and fairly, and to not unreasonably reject a claim.

The relevant terms and conditions of Mr C's insurance policy says:

Rent and/or alternative accommodation

- ii) *rent, which ceases to be payable to you whilst the buildings are uninhabitable or inaccessible due to damage but not for more than 36 months from the date of the damage.*

The policy defines “rent” as:

Rent:

- a) *Money paid or payable to you in the course of the business in respect of the buildings shown in the Schedule. In respect of untenanted buildings or portions of buildings, the money estimated to be paid or payable to you once the buildings or parts of them are let for accommodation.*
- b) *Service charges payable to you in the course of the business in respect of the buildings shown in the Schedule*

I've been provided with a timeline of events from September 2020 to January 2022. I can see that Zurich has identified on this timeline where it believes Mr C could've progressed things more quickly. And it's for these delays which Zurich says it shouldn't have to pay loss of rent.

Mr C has told us the one-month delay in identifying the leak and making his claim is because the building landlord took that time to investigate and make the decision for a claim to be made. It then took them a further two months to submit a report to the insurers. There were also delays from his letting agents in obtaining quotes as it was the Christmas period.

Zurich say its experts are of the opinion the repairs should've taken 11 months. But, ultimately, insurance claims of this scale very rarely go according to plan and complete on time. There is always an element of delay when relying on different companies to play their part and that needs to be factored in when thinking about what should've happened.

I've thought about Zurich's comments that it isn't liable for losses as a result of other companies delays which it doesn't have control or responsibility for. But these delays were out of Mr C's control as well and he's insured for these losses.

Zurich took on this risk when it accepted the policy premium and there's nothing in the policy terms which allows it to exclude lost rent for this reason. I appreciate Zurich relies on the policy term which say there is cover for *“the period necessary to restore buildings”* but as this wording only relates to the cost of alternative accommodation, I don't agree it applies here.

So I don't think it's fair for Mr C to be out of pocket for something he has insurance to cover him against. As Mr C is covered for lost rent whilst his apartment was uninhabitable and it was uninhabitable for 17 months, I see no reason why it's fair for Zurich to pay anything less than that.

In regard to Mr C's council tax, this isn't something the policy provides for. I've thought about his comments that the policy doesn't specifically exclude it. But it doesn't need to. It's not practical to expect a policy document to list everything it won't cover. Instead, we expect it to list everything it will cover along with any exceptions, exclusions, or conditions applicable to that cover. The policy is clear that it covers lost rent, and it defines what it considers rent to be. As council tax doesn't fall within this, I'm not persuaded Zurich is liable for these costs.

Mr C also wants Zurich to pay for his letting agent's time working on his claim. But as the letting agents aren't a customer of Zurich or an eligible complainant in this case, I can't

award anything for their losses. Zurich has already offered £350 compensation which in part recognises that it should've clarified with Mr C who was dealing with his claim. I'm satisfied this is enough to put things right in respect to the impact it had on Mr C personally.

Mr C tells us he's out of pocket for credit card charges as a result of having to pay contractors for materials and repairs upfront and he didn't receive the claim settlement until 2023. I can't see that Mr C has raised this point to Zurich directly in the first instance and it hasn't been addressed by Zurich in its complaint response. So, I won't be making a finding on this and if Mr C still wishes to pursue it, he'll need to raise it to Zurich in the first instance.

My final decision

For the reasons I've explained, I uphold this complaint and direct Zurich Insurance PLC to pay 17 months loss of rent plus 8% simple interest from February 2022 to the date it's paid. If Zurich has already paid the 11 months' rent previously offered, it doesn't need to pay interest on this part of the claims settlement.

Zurich Insurance Plc has offered to pay compensation of £350, and I consider this to be fair in the circumstances. So if it hasn't already, it should pay Mr C £350 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 27 June 2024.

Sheryl Sibley
Ombudsman