

The complaint

Mr S complains about Allianz Insurance Plc's settlement of a claim made under his property owner's insurance policy.

What happened

The background to this complaint is well known to both parties, so I'll provide only a brief summary here.

Mr S has a property owner's insurance policy underwritten by Allianz which covers a property he owns and rents out.

He made a claim on 6 July 2022 after an escape of water at the property. Allianz accepted the claim, and it was agreed the repairs would be arranged by a loss assessor working on behalf of Mr S. Allianz also appointed a loss adjuster to oversee the claim.

There are essentially two areas of dispute about the way Allianz proposed to settle the claim. And these form the basis of the complaint Mr S made to Allianz and then brought to us.

First, Allianz told Mr S he was underinsured, having underestimated the cost of rebuilding the property when he took the policy out.

And on that basis, they proposed to settle the claim proportionately, by comparing the rebuild cost (and so, sum insured) declared by Mr S to the actual rebuild cost of the property. They said Mr S was in effect around 65% insured and so they'd pay around 65% of the claim costs.

Second, Allianz paid for alternative accommodation for Mr S's tenants for the period *after* the property had been stripped out and the repairs commenced up until 13 weeks after that. The 13 weeks was based on the amount of time Allianz thought it ought to have taken to carry out the claim-related repairs.

Mr S's view was that Allianz should pay those costs from the date of the claim because the property was uninhabitable from that point onwards due to damage caused by the escape of water.

He also thought they should pay those costs up until the date the tenants actually moved back into the property (which was around six weeks after the period allowed by Allianz ended).

Allianz didn't uphold Mr S's complaint to them. They said they hadn't agreed to pay alternative accommodations costs prior to the strip out – and they maintained that the claim-related work should have been completed sooner. They also said the decision to settle the claim proportionately was correct because Mr S was in fact underinsured.

Our investigator looked into it and thought Allianz hadn't acted fairly.

On the basis of the evidence – including an estimate of the rebuild cost undertaken by the

loss assessor using an industry-recognised calculator – she thought Mr S has provided a reasonable estimate of the sum to be insured when he took the policy out. And so, Allianz could not reasonably or fairly reduce the claim value on the basis that Mr S was underinsured.

She also thought Allianz should pay the alternative accommodation costs from the date of the claim through to the date the tenants moved back into the property. On balance, she thought the available evidence suggested the property was uninhabitable from the date of the claim. And Allianz had not convinced her that the repairs works ought to have been completed sooner.

And she said Allianz should pay Mr S £500 for the trouble and upset he'd been caused by their errors or omissions

Allianz accepted our investigator's view on the underinsurance point and agreed to settle the claim without reducing it proportionately. They also accepted the compensation payment our investigator suggested.

They also offered to pay alternative accommodation costs for the period from mid-October 2022 through to 25 January 2023 – a period they hadn't previously agreed to cover. But they were unwilling to cover the period from the date of the claim to mid-October because they felt the property was likely inhabitable – and there were delays which were the responsibility of the loss assessor and/or Mr S.

Allianz had also accepted that the works to re-fit the property might reasonably have taken 17 weeks, rather than 13 weeks, so they were willing to extend the alternative accommodation period for four weeks after the original assumed (reasonable) completion date.

Mr S wasn't willing to accept Allianz's offer and asked for a final decision from an ombudsman. He maintains that Allianz should pay the alternative accommodation costs from the date of the claim through to the date tenants moved back into the property.

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.

The alleged underinsurance

Allianz – to their credit - have now accepted that Mr S made a reasonable estimate of the rebuild costs when he bought the policy. And they've agreed not to reduce the claim value proportionately in response to the previously supposed underinsurance.

So, I don't need to go into detail on that issue in this decision. Suffice to say only that all are now agreed that Mr S's estimate of the rebuild costs was reasonable. The re-worked rebuild costs estimate produced by the loss assessor, using the industry-recognised rebuild cost calculator, is entirely persuasive.

As an aside, I will just say though that Allianz ought to be aware that we take the view that where a policyholder *is* underinsured and a remedy *is* available under the relevant legislation (in this case, the Insurance Act), the proportional settlement should be calculated by comparing the premium the policyholder paid to the premium they should have paid.

We don't think it's fair (or in line with the terms of the Insurance Act) to perform that calculation by comparing the declared rebuild cost to the actual rebuild cost, as Allianz initially proposed to do in this case.

The alternative accommodation payments

All are agreed that the policy terms mean that Allianz should in effect pay for alternative accommodation whilst the property is uninhabitable.

In short, we take the view that properties should usually be regarded as uninhabitable if there are no facilities for personal hygiene and/or cooking / laundry.

I think all would also agree that a property should be regarded as uninhabitable if there is a significant risk to the health and safety of the occupants.

In this case, Mr S says that there were no facilities because: (a) the water had to be turned off; and (b) the electricity had to be turned off. And he says the property was unfit for habitation after the escape of water because it was severely damp.

I think the point about the water supply is a red herring. The water had to be turned off until the leak was properly fixed – which I understand was a few days after the escape of water. That, in itself, wouldn't make the house uninhabitable for any prolonged period of time.

A lack of electricity would, of course, make the property uninhabitable. Allianz say the electricity was on when the drying was carried out – and when their loss adjuster visited the property in late October 2022.

However, there are two survey reports carried out before the reinstatement works were started in January 2023.

The first, produced by the loss adjuster after that visit in October 2022, says that there are floor tiles throughout the property (in all rooms). It says the screed beneath those tiles is wet. It also says the tenants are in alternative accommodation – though the loss adjusters will review this.

The second, produced in December 2022 by a company appointed by the loss assessor, says the sub-floors in all rooms are saturated, as are the lower plaster board walls throughout the property – and possibly the solid walls at the back of the property. And it says there is possible damage to the electricals located under the floor screed.

Allianz have said this latter report was produced around six months after the insured event. However, there's no suggestion in either report that the water in the screed (and above it in the walls according to the December report) was caused by anything other than the escape of water in July 2022.

On the basis of those two reports then, it seems to me on balance very likely that the property was uninhabitable from the date of the escape of water and the claim – that is, from 6 July 2022.

It appears most likely that, from that date, the property's floors and lower walls were saturated. And it appears most likely that there were significant concerns about the safety of the electricity supply to parts of the property at least.

Also, as I've mentioned above, the loss adjuster was aware the tenants had moved into alternative accommodation. And there's no evidence to suggest they'd indicated to Mr S or the loss assessor that this was a problem (or potential problem).

That squares with evidence provided by the loss assessor, who has shown us emails from the loss adjuster from November and December 2022. Both emails reference the alternative accommodation costs.

One says that Allianz won't pay alternative accommodation costs indefinitely. The other says the claim needs to be progressed in order that alternative accommodation costs are minimised.

So, it's fair to assume that – long before the January date when Allianz originally said the alternative accommodation payments ought to be started – their loss adjuster was aware of the fact that the tenants were in alternative accommodation and had at least tacitly accepted that Allianz would be footing the bill.

In my view, that created a legitimate expectation in Mr S that the costs would be covered, starting from the claim date. And it denied him the opportunity to mitigate his losses in the event those costs weren't to be covered under his insurance policy.

I should also say that the loss assessor has been clear that they made Allianz themselves aware of the fact the tenants were in alternative accommodation almost at the outset of the claim – and before the loss adjusters were appointed.

I'm satisfied on balance the property was uninhabitable from the date of the insured event. And that, even if it weren't, Allianz and /or their agents had indicated to Mr S that alternative accommodation costs would be covered and, in so doing, in all the circumstances, created an obligation for Allianz to cover those costs.

So, Allianz should cover alternative accommodation costs for the period between 6 July 2022 and 25 January 2023 (when the reinstatement works began) in full.

At the other end of the date range, Allianz say unnecessary delays – which were the responsibility of Mr S and/or the loss assessor - meant that the tenants didn't move back into the property until several weeks after the work reasonably ought to have been finished.

Allianz eventually moved to a position that it ought to have taken 17 weeks (from 25 January 2023) to get the works completed. But it took longer than that. They also tell us they think the reinstatement works could have started sooner, had the loss assessor organised the drying and strip out works effectively.

Allianz's reasons for saying that there were unnecessary delays aren't entirely clear. But in any case, it doesn't seem to me that the timelines for the drying, strip out and reinstatement works are significantly out of kilter with what we'd normally expect in this kind of claim.

Allianz have said they suspect that non-claim-related works were also being carried out at the property – and that these may have inevitably delayed the point at which the tenants could move back in.

However, the only evidence they've produced to support that is their own record of what their loss adjuster was reported to have said.

There is no explanation in that record of what the loss adjuster thought the additional works were – or indeed how they might specifically have affected the end date for the works as a whole. And clearly, there's no actual evidence of any additional works being carried out.

In the absence of any real evidence to support the loss adjuster's claim, I can't reasonably conclude that the time taken for the works at the property was unnecessarily delayed by non-claim-related works.

And so, I'm going to require Allianz to cover the tenants' alternative accommodation costs up to the date they moved back into the property – which, as I understand it, was 6 July 2023.

Putting things right

I've set out above why I'm satisfied Allianz should settle the claim without any proportionate reduction for underinsurance. As I've said, Allianz have accepted this.

I've also set out why I believe Allianz should cover the alternative accommodation costs from the date of the claim to the date tenants moved back into the property.

Allianz will also have to add interest – at 8% per annum simple – to any payments they now make to Mr S as a result of this decision.

In terms of the settlement for the repair costs, Allianz should calculate that interest from the date they made any reduced payment to Mr S to the date they make the payment of the shortfall.

In terms of the alternative accommodation costs, Allianz should calculate that interest from the date they made any previous payment to Mr S to the date they pay the shortfall.

Mr S has also been caused a degree of stress as a result of Allianz not paying his claim in full, as they ought to have done. And he has been caused considerable inconvenience, not least in having to pursue the matter with Allianz – and with us - in order to have things put right.

On that basis, I agree with our investigator that £500 is fair and reasonable compensation for the level of distress and inconvenience Mr S has experienced due to Allianz's errors or omissions.

My final decision

For the reasons set out above, I uphold Mr S's complaint.

Allianz Insurance Plc must:

- settle Mr S's claim without any proportional reduction for underinsurance;
- pay alternative accommodation costs for the full period between the date of the insured event and the date tenants moved back into the property;
- add interest at 8% per annum simple on any additional payments they now make to Mr S in respect of the above (calculated as described in the section above);
- pay Mr S £500 in compensation for his trouble and upset.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 16 October 2024.

Neil Marshall
Ombudsman