

## The complaint

Ms A has complained about her let property insurer FAIRMEAD INSURANCE LIMITED. She thinks it caused delays, allowing damage at her property to get worse. She thinks it owes her additional money for repairs, plus loss of rent.

## What happened

Ms A was notified of damage at her let property in May 2022. She got quotes for repair and a cause of damage report. She made a claim. She was asked to send various documents to Fairmead's agent, including the cause of damage report. Ms A provided the quotes for repair she had received, which showed costs ranging from £8,850 to £14,635.50.

In August Fairmead's loss adjuster visited the property. In late October 2022 Ms A provided a cause of damage report dated May 2022. On 24 November 2022 Fairmead said it would pay Ms A £12,709 for repairs less the policy excess of £550, this was net of VAT. Fairmead said this covered damaged items only. This sum was paid on 30 December 2022.

Ms A told Fairmead that she'd had to get a new contractor, and the cost of repair had increased to just over £40,000, including VAT. In March 2023 she showed Fairmead that this sum had been paid in part by her. She said she wanted Fairmead to pay her additional costs, including VAT and lost rent, as well as a disturbance allowance for her tenants. Fairmead said its initial settlement had been fair – if the damage had got worse it was because Ms A hadn't fixed the leak. It said it would consider lost rent upon proof Ms A had lost rent, but not any allowance for the tenants. Nearly a year later, in January 2024, Fairmead paid Ms A VAT of £2,541.80 (the sum applicable on its settlement sum of £12,709). Fairmead accepted there had been delays, offering £300 compensation which was later paid.

Our Investigator, considering Ms A's complaint, felt that Fairmead's settlement and offer to consider lost rent were fair. But she felt a total of £500 compensation was required to fairly and reasonably reflect the upset caused to Ms A by Fairmead's delays.

Fairmead said it couldn't agree to the increase in compensation. Ms A was also unhappy with the findings. She said work was initially done to fix the leak but it was made clear more work was also required (which couldn't be done until Fairmead settled the claim). The complaint was referred to me for an Ombudsman's decision.

I was satisfied that Fairmead's offer to consider lost rent is fair and that the £500 compensation, as suggested by our Investigator, is reasonable. But I felt Fairmead fairly must pay some interest on its settlement sums. I also felt it would have to review its settlement to account for the cost of replacing undamaged parts of the kitchen and bathroom which are a match for damaged parts which couldn't be replaced like for like. So I issued a provisional decision to explain my views. My provisional findings were:

### "Lost rent and disturbance allowance

*Ms A's asked Fairmead to pay lost rent. Fairmead has agreed to consider this upon receipt of proof of the loss. I understand Ms A has provided a tenancy agreement – although*

possibly not that covering summer 2022 into 2023 (which was the period during which rent may have been lost). But Fairmead has also asked for proof that less rent was received by Ms A than that agreed in any relevant tenancy agreement. I think that's fair and I don't currently intend to require Fairmead to pay anything regarding lost rent.

Fairmead said it wouldn't pay a disturbance allowance. I note the policyholder is Ms A, and the policy is there to offer cover to her for her costs and losses. I think Fairmead's decision on this occasion, to not pay Ms A an allowance for her tenants, was fair and reasonable.

#### Compensation

I note that it took around three months for a loss adjuster to be appointed to assess the damage. But I also note that, when they were appointed Ms A had still not presented a cause of damage report, which she'd been asked to provide at the outset (and which she did have at that time). I accept that Fairmead couldn't reasonably look to accept the claim or make any settlement for it until that was received. I'm satisfied that its delay in appointing a loss adjuster did not prevent or delay Ms A in providing the necessary report.

Ms A provided the report at the end of October. It was then not until the end of December that Fairmead paid the claim. I can see no good reason for such a delay. When Fairmead made that payment it was less VAT. That was understandable. But Ms A quickly showed Fairmead that she'd incurred a cost for VAT. Fairmead delayed paying the VAT element for a year. That was unacceptable.

I know Ms A felt communication with Fairmead's loss adjuster was poor – with her having to chase for updates and messages she left going unanswered. Fairmead has acknowledged that it provided a poor service and caused delays.

Taking everything into account, I think £500 compensation is fairly and reasonably due. I'm aware that Fairmead has paid £300 of this sum, I'll now require it pay a further £200.

#### Interest on repair settlement

Fairmead delayed paying the settlement net the VAT sum and then, once it was shown that VAT was reasonably due, the VAT sum itself. So it reasonably has to make an additional payment to Ms A equating to 8% simple interest due on each sum, from the date it should have paid each until it actually did so.

It seems, from some notes on Fairmead's files, that it was 30 December 2022 when the initial settlement sum of £12,159 (£12,709 less the policy excess of £550) was paid. It knew this sum was reasonably due to Ms A on 24 November 2022. It will now have to pay an amount equivalent to interest applied on that settlement sum from 24 November 2022 until 30 December 2022.

Ms A showed Fairmead in March 2023 that she'd incurred a cost for VAT. It didn't pay her a settlement for VAT until January 2024. It will now have to pay an amount equivalent to interest applied on that VAT sum from 1 March 2023 until this was paid in January 2024 (which must have been sometime after 23 January 2024, which was when the loss adjuster asked Fairmead to raise payment).

#### Extent of settlement

Ms A has recently said that the leak was fixed. However, her cause of damage report from May 2022 said the leak wasn't fixed. And a further report from the contractor which completed the repairs, recorded that when he first visited the property in December 2022 there was a hole in the pipe. So I'm satisfied that the leak remained unresolved between May and December 2022.

*I know that during this time Ms A was waiting for the claim for damage repairs to progress. However, she always had a responsibility for fixing the leak, which was separate to anything Fairmead might be liable to her for in respect of damage repairs. She did have cover for tracing and accessing a leak – but this was linked to the escape of water cover on the policy. For Fairmead to be satisfied as to its liability for tracing a leak causing damage covered by an escape of water claim, it needed to see a cause of damage report, which wasn't presented to it until the end of October 2022.*

*If the damage got worse between May and December 2022, I'm not persuaded I can reasonably hold Fairmead responsible for any additional costs incurred for repair. Ms A should reasonably have acted to resolve the leak to prevent further damage occurring.*

*That said, I've considered the settlement Fairmead did make based on the quotes submitted in May 2022 and its assessment of the damage in August 2022. I see it accepted liability for £15,250 of costs, inclusive of the excess sum and VAT. I see that sum is in excess of the range of quotes Ms A initially obtained. Fairmead has explained that its settlement reflects the cost for reinstating damaged items and the quotes contain repair/replacement of undamaged parts. Given the settlement is in excess of those quotes, as far as it reflects payment for damage items, I think it's fair.*

*Fairmead though, is aware that this Service usually expects an insurer to pay towards the cost of replacing undamaged parts of matching damaged items, where the damaged parts can't be replaced on a like basis. This is generally referred to as our 'matching sets' approach. Having seen confirmation provided by Fairmead to our Investigator that its settlement had not included any amount for undamaged matching parts, I asked Fairmead why that was. Fairmead replied stating that its settlement had included £2,500 towards undamaged units in the kitchen and £4,000 for undamaged tiling in the bathroom.*

*I note this explanation from Fairmead. But having reviewed its loss adjuster's file I think it is mistaken about the basis on which the settlement was calculated.*

*The loss adjuster's file is clear that only damaged units and damaged tiling will be paid for within the settlement. The loss adjuster explains that for the kitchen – replacing the units around the soil stack will be paid for, but not all units and not any base units. Regarding the bathroom, the loss adjuster said one row of tiling around the edge of the bath would be covered to allow for damage caused when it was removed, and for any floor tiling damaged by water. That isn't in line with this Service's matching sets approach.*

*I can see from photos of the bath that the tiling, around the bath and on the floor, appears quite old. So it may well be that matching tiles couldn't be found. I know that the contractor reinstating the property, said the kitchen was 20 years old and matching units could not be found. He said replacing the whole kitchen would cost less than fabricating bespoke replacements for the damaged units (to maintain the match with the undamaged ones).*

*I think Fairmead hasn't offered fair settlement regarding undamaged but likely matching items. I'm minded to require it to reconsider its settlement in this respect. If it thinks that a reasonable match for any bathroom tiles was most likely possible it will be up to it to show that. If it disagrees with the evidence from Ms A's contractor about replacing the kitchen units, it will be up to it to show reasonable proof in this respect. Having considered its settlement in light of the matching sets approach it should tell Ms A whether it will be paying anything further to her. If its answer is that nothing further is due, it should explain why. If it is prepared to make a further payment it should tell Ms A how much that will be and provide any rationale it has for that sum. If Ms A remains unhappy following Fairmead's reconsideration of the settlement on the basis of matching sets she will be able to make a further complaint in that respect. To be clear, such a complaint would not consider the*

*settlement sum as a whole – I've given my view on that already – it would focus on the whether or not Fairmead has settled fairly and reasonably regarding matching sets."*

Fairmead did not respond to my provisional decision. Ms A said she was not sure Fairmead had paid her the £300 compensation. She said the initial delay was caused by technology issues with RSA's agent. Ms A said the loss adjuster said that costs being in excess of the initial estimate would not be a problem, he was terrible to deal with and she went ahead with the reinstatement work only when she had to.

### **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.

I note, regarding compensation, Ms A has asked me to check with Fairmead that £300 was paid to her. I haven't done that at this time – but Fairmead should reasonably be able to show if that payment has been made to Ms A, and my provisional findings explained that my compensation award was £500 with only £200 to now be paid by Fairmead on the basis that £300 already had been. So if Fairmead can't evidence its payment of £300 to Ms A, it stands to reason that it will have to pay the total award of £500.

I appreciate there were some delays before the loss adjuster was appointed and visited the property in August 2022 – but Ms A was asked before then to provide a cause of damage report which she did not do until October 2022. I'm not persuaded that any delay by Fairmead, in those early months of the claim, before August 2022, materially delayed the claim or prejudiced Ms A. That is because, as I explained provisionally, it couldn't reasonably act until that report was provided by Ms A.

I haven't seen that the loss adjuster promised that costs in excess of the estimates would not be a problem. But, if he did say that, I don't think he would have been envisaging costs increasing by over £20,000 (from around £15,000 to just over £40,000), or that so much more work would become necessary than initially scoped for. In any event, I don't doubt that the extent of reinstatement work that was ultimately required was because the leak was allowed, by Ms A, to continue over several months – Fairmead isn't reasonably liable for repairs associated with that increasing level of damage.

Having reviewed matters, my views have not changed. As such my provisional findings, along with my comments here, are now those of this, my final decision.

### **Putting things right**

I require Fairmead to pay Ms A:

- A further £200 compensation, where my overall award is £500, with £300 of that already having been paid. If £300 has not already been paid then the whole sum of £500 must be settled.
- An amount equivalent to interest\* applied on the sum of £12,709 from 24 November 2022 until 30 December 2022.
- An amount equivalent to interest\* applied on the sum of £2,541.80 from 1 March 2023 until this sum was paid (sometime after 23 January 2024).

I also require Fairmead to reconsider the repair settlement in light of this Service's approach to matching sets.

\*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 may require Fairmead to take off tax from this interest. If asked, it must give Ms A a certificate showing how much tax it's taken off.

### **My final decision**

I uphold this complaint. I require FAIRMEAD 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 Ms A to accept or reject my decision before 1 November 2024.

Fiona Robinson  
**Ombudsman**