

## The complaint

Mr R complains about the way Alwyn Insurance Company Limited (“Alwyn”) handled a claim made under his insurance policy.

## What happened

Mr R made a claim to his insurer, Alwyn, under his Landlord Home Emergency policy, when his tenants reported water ingress coming from the upper flat into their ground floor flat. Alwyn sent its engineers out on 2 February 2024, despite the damage first being reported on 17 January.

During this time, Mr R says the condition of the ceiling became worse, and that Alwyn’s negligence affected the electrics, making the property unsafe and uninhabitable. Mr R says Alwyn’s contractors missed appointments that had been arranged and that this cost him thousands in loss of rent and repairs.

In response to his complaint, Alwyn said it accepted that its engineer had caused delays. But it also said the damage Mr R had complained of was not present when the engineer attended on 2 February to fix the leak. It said that the timber was rotten in the photos provided, which indicated that the leak occurred around four to six weeks before Alwyn was notified of the problem. It also said that the fallen section of ceiling had what looked like a straight edge around it, implying it had been cut on one side without being supported on the other, which may have caused the ceiling material to collapse.

Alwyn further stated in its response that the plumbing at the property wasn’t up to the required standard. So it partially upheld the complaint and offered Mr R £200 for the delays.

Mr R didn’t accept Alwyn’s response. He said there had been a breach of contract, mis-selling of insurance cover, false advertising and that the policy wasn’t fit for purpose. So he referred his complaint to this service.

Our Investigator considered the complaint, but didn’t think it should be upheld. She said the offer of compensation from Alwyn was fair and reasonable in the circumstances because although it had caused a delay, Mr R would’ve had to repair the damage himself anyway. Mr R didn’t agree with our Investigator’s view, so the complaint was passed to me to decide.

I issued my provisional decision on 3 October 2024, letting the parties know I intended to uphold the complaint. I’ve included an extract from my provisional decision below.

*“Mr R’s policy says it provides “cover for an emergency only and is not intended to cover matters which can be prevented through routine general maintenance”. It defines an emergency as a “sudden and unforeseen incident which needs to be dealt with immediately to avoid,,,causing damage or further damage to your property...making your property unsafe, insecure or uninhabitable”.*

*This means that the policy only provides cover for stopping the emergency itself, which in this case was the leak. And once the leak had been stopped, it would've been for Mr R to deal with the damage caused by the leak as the policy doesn't provide cover for this.*

*I can see from the photos that the damage caused by the leak was limited to damp staining on the ceiling. Mr R would've had to arrange for this to be repaired in any event, because the policy doesn't cover reinstatement work. I've been mindful of this in making my decision.*

*The delay in Alwyn's contractors attending was 16 days in total, for an emergency which needed to be attended to straight away to prevent further damage. So I've considered what likely happened based on what both parties have said, and the impact of it.*

*Alwyn said in its final response that its contractors called both parties on 18 January, the day after the leak was first reported, and that there was no answer. It said that on the same day, contact was made with the letting agent and an engineer was booked to attend on 22 January, but he didn't arrive on time due to traffic. It added that when he arrived, the letting agent had left the property and couldn't return. Alwyn also said another appointment was made for later in the week. And that the engineer attended but the letting agent wasn't there and couldn't be contacted. It said the next appointment was made for 2 February and the engineer attended as agreed and isolated the leak.*

*Mr R says the damage got considerably worse due to the engineer's non-attendance, and that he'd been calling and emailing the insurer during this time with no response. He also said the tenant had been booking time off work only for the engineer not to show up. Mr R addressed Alwyn's point about the straight edges of the hole in the ceiling, saying these edges were where two separate plasterboards were damaged. I consider Mr R's explanation about this to be more plausible than Alwyn's because I can see in the photos where the two pieces of plasterboard appear to meet.*

*Looking at all the evidence, including what both parties have said, as well as the photos and contemporaneous notes provided, I can see that Alwyn's version of events in its final response letter isn't accurate. In its final response it says the engineer attended on 27 January but there was no one there to let them into the property. But the complaint report provided by Alwyn shows that on 26 January the engineer arrived later than agreed which is why the agent had left. And on the day of the first scheduled appointment, the engineer didn't arrive at all because of an error involving the address. So I'm persuaded that there were at least two occasions on which Alwyn's contractors caused avoidable delays.*

*I can see from the evidence provided that Alwyn did attempt to make contact, unsuccessfully, such as on 27 January when the notes show that an engineer attended the property but there was no one there and no one was answering their calls, on 29 January when a voicemail was left for the managing agent who didn't respond or call back, and on 31 January when again the managing agent didn't return calls or voicemails.*

*But taking everything into account, and despite it attempting to make contact on a few occasions, I'm not persuaded that Alwyn kept to agreed appointments or acted with the urgency that the situation required. I say this because Mr R has provided evidence from the managing agent which demonstrates that the property became uninhabitable as a result of the further damage that was caused due to the delays.*

*The managing agent says:*

*"We can confirm we attended the property when the leak was first reported, and at that stage, there were only watermarks on the ceiling, which indicated a leak. We also attended the property to meet the emergency contractor, who missed appointments multiple times... when the leak was first reported, the ceiling only had watermarks and no serious damage. In*

*fact, in my experience as a property manager, it would have only required redecoration once the leak was solved and the ceiling dried out. However, by the time the engineer finally stopped the leak, part of the ceiling had collapsed due to the leak not being addressed sooner”.*

*I’m persuaded by this, and by the letter from the plasterer which Mr R has also provided, that the extent of the damage, and the property becoming uninhabitable and unsafe, was a direct consequence of the failure to attend to the emergency within a reasonable time. The plasterer says, in his letter:*

*“As an expert plasterer with over 30 years of experience, I can assert that if the leak had been addressed and stopped within 1-3 days, the damage to the ceiling/plaster would not have been as severe, requiring me to carry out the work above. The initial picture taken shows water had not fully reached the light-fitting, which is not the case on the pictures where the ceiling has collapsed. The initial picture taken clearly shows watermarks on the ceiling. However the ceiling is still intact and no serious damage was caused at that stage when the photo was taken. I can confidently say this because there is no bowing or blowing on the ceiling plaster”.*

*Alwyn has said the timber was rotten, indicating a more long-term problem and it’s suggested that this shows that the leak occurred much earlier than reported. But I’m not persuaded by this argument. The photographic evidence doesn’t show this clearly – and the condition of the timber and the mould could’ve been from historical issues such as a previous leak. So I don’t have enough evidence to say that the leak wasn’t reported promptly. Alwyn also hasn’t provided any evidence that the lower standard of plumbing at the property was the cause of the relatively large extent of damage.*

*Alwyn has already accepted that there were delays caused by its engineer and has offered £200 compensation for the distress and inconvenience that Mr R suffered as a result of this. So I’ve considered the impact of the delays, and having done so, I consider this to be a fair and reasonable offer, bearing in mind the time it took Alwyn to attend to the leak and the frustration this would’ve caused.*

*Mr R mentions a risk of injury, and other more serious risks, in his submissions to this service. But I can’t consider hypothetical situations and have based my decision on what actually happened, not what could’ve happened had the situation been considerably worse.*

*It’s clear that Alwyn didn’t do as it ought to have done within a reasonable time. And that’s what it’s offered compensation for. Mr R can look on our website for more information about how we look at awards for distress and inconvenience. And I think in this case, because there was a delay of just over two weeks and there were repeated errors by Alwyn which took considerable time and effort to put right, compensation in the region of £200 is what I would’ve awarded had no offer been made.*

*But, I currently consider Alwyn liable for the majority of Mr R’s consequential losses. So unless it can provide me evidence of why it shouldn’t, it will need to cover 75% of the cost of reinstatement work, which came to £750 in total. Mr R has provided evidence of this. I say Alwyn should pay 75% of the total cost, because Mr R would’ve incurred his own costs in any event, to repair the initial damage caused by the leak, even if Alwyn’s contractors had attended within a reasonable timeframe, because the initial damage caused by the leak wouldn’t have been covered by the Home Emergency policy. So I’ve deducted 25% of the repair cost to reflect the costs Mr R would’ve likely incurred himself based on the damage I can see in the initial photos and based on my own independent research about the likely cost of repairing the initial damage.*

*If my final decision is in line with this provisional decision, Alwyn will also need to pay interest at a rate of 8% simple per annum, for the time Mr R has been without these funds (from the date he paid his contractor to the date Alwyn reimburses him) – as long as Mr R can provide Alwyn with an invoice for repairs and evidence of the date he paid the invoice for the repairs.*

*Mr R has also claimed for loss of rent. So I've also considered this point carefully. Given that I'm currently satisfied that the increased damage only occurred due to the delay in Alwyn's contractor attending the emergency and isolating the leak, I find that Alwyn is responsible for the extent of the resultant damage – which led to the tenants having to move out for a period of three months due to the safety risk of the electrics being affected and needing to dry out. I don't think Mr R's tenants would've had to vacate the property had the leak been isolated quickly, as I'm persuaded the ceiling wouldn't have collapsed, the electrics wouldn't have been affected, and the repairs would've been minor in comparison to what ultimately had to be done. It follows therefore that Alwyn will need to cover the loss of rent, with interest, unless I receive any information or evidence which persuades me otherwise."*

Alwyn responded to my provisional decision. It said, in summary:

- It refutes any allegations of negligence and does not consider it should be held liable for all of the insured's losses.
- It strongly believes that the insured and their agent substantially contributed to the losses by failing to respond to attempts to contact them to arrange the engineer's visit.
- Its contractor could've attended the same day had the insured or their agent been responsive. The insured's agent eventually confirmed that they would not be available to deal with the matter until 22 January 2024 – several days after the emergency was reported.
- The expert opinion provided by the insured's plasterer states that if the leak had been addressed and stopped within 1-3 days, the damage to the ceiling wouldn't have been as severe. But this indicates that by the time Alwyn's engineer was permitted to attend, several days later, the damage would've already been substantial.

Mr R also responded to my provisional decision and said that the tenants who reported the leak moved out of the property on 9 February 2024 and the new tenants couldn't move in until 18 May 2024, due to all the damage and the work that had to be done. He also asked if Alwyn would be covering any of the electrical work, and whether it would be paying him the £200 it offered. He refuted the allegations that Alwyn had made, including that he and his agent contributed to delays, and pointed out that he'd spent months trying to resolve these issues.

Both parties asked me to reconsider my findings in light of their submissions. I've now had an opportunity to do so.

### **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 reconsidered everything, including the additional comments provided by both parties, I'm upholding the complaint in line with my provisional decision.

Mr R has made some persuasive points in relation to what happened and has provided evidence which has satisfied me that Alwyn didn't act fairly in relation to this claim. I also agree with Alwyn that it shouldn't be held liable for all of Mr R's losses. I'll explain why.

Mr R has provided copies of emails he sent on the day the loss was first reported, on 17 January 2024. On this date Mr R emailed Alwyn to ask it to deal directly with the agent. The emails weren't responded to on the same day, despite Alwyn telling me that its contractor offered a 24 hour service.

So I don't agree with Alwyn's assertion that on 17 January *"neither the Insured or the Insured's Agent respond to DBS's attempts to contact them to arrange the engineer's visit. A message was left with the Insured and the Agent who could have reverted to DBS anytime which they didn't"*. This isn't correct.

Alwyn could have emailed Mr R back if it wasn't able to get through to him or his agent over the phone, but I can't see that it did. One of Mr R's emails asked for a direct number to be provided and again I can't see this was provided – if Alwyn had emailed Mr R back on the same day, it's likely Mr R would've been able to get in touch with the contractor directly.

I've also found Alwyn's claim to be inaccurate that on 18 January, *"DBS contacted the Insured and the Agent again however there was still no response"*. I'm satisfied this isn't correct as Mr R has sent me evidence of the email he received on that date, together with his response which he sent as early as 9.44am. I find it unhelpful that the emails Mr R received did not have any phone numbers for him to call. And I can see from these emails that Mr R was attempting to be as helpful as possible.

There don't appear to be any notes on Alwyn's file between 18 January and 25 January. And on 25 January it became apparent to Alwyn that the engineer didn't attend on 22 January as planned. I don't think it's reasonable for there to have been a further three-day delay in finding out what had happened – and I think Alwyn would've found out much sooner about the incorrect address on file and the engineer's non-attendance had it been providing good customer service and checking on the claim. I'm also satisfied from what I've seen, that it wouldn't have been the agent providing access, but the tenant. So I don't think it's fair to say that the agent couldn't attend until 22 January.

Overall, I'm not persuaded that the engineer was stopped from attending on the same day the loss was reported. Instead, I'm more persuaded by the contact notes and emails provided, that there was poor communication which meant an engineer wasn't sent on 17 or 18 January, which I think could've been arranged if Mr R's emails had been responded to.

And I've thought carefully about Mr R's plasterer's report which states that damage could've been limited had the engineer attended between 1-3 days after the notification of loss to stop the leak. And I think this is correct, and damage would've been far less severe overall. From the photographs provided it's clear that the damage worsened over the following days due to non-attendance by the engineer.

As I've said in my provisional decision, I'm not requiring Alwyn to pay 100% of the costs incurred as Mr R would've had to pay for the limited reinstatement work himself had Alwyn's engineer arrived on time to stop the leak – because the initial damage from the leak wouldn't have been covered under the policy.

I've thought about whether Alwyn will need to pay Mr R's costs for putting right the electrical damage as part of the claim. But I'm not persuaded from the photos I've seen that the electrical damage wouldn't have happened early on. In the photos provided from January, when the loss was first reported, the ceiling staining is around the light fitting, but it's not

clear what damage, if any, had occurred to the wiring and electrics that aren't visible from the photo at that time. So it wouldn't be fair for me to require Alwyn to pay those costs, evidence of which I haven't seen, and without knowing for certain at what point the electrics became damaged. It's possible that the electrics would've been damaged due to the initial leak in any event. So I'm not persuaded that the cost of electrical work should be reimbursed.

I also won't be increasing the amount due to Mr R for loss of rent between 9 February 2024 to 18 May 2024. Although this may have been the time Mr R was without a tenant, I'm satisfied that the timeframe I gave in my provisional decision would've been adequate for repairs to be carried out and for tenants to move back in, even if it did ultimately take a little longer than this. So Alwyn should cover Mr R's loss of rent from 9 February 2024 until 11 April 2024 when the repairs were completed.

I appreciate Mr R has spent considerable time and effort dealing with this matter, and isn't of the view that £200 compensation is adequate. But dealing with claims of this nature isn't always hassle-free – and I have to also consider what proportion of the inconvenience caused was as a result of the leak itself, rather than Alwyn's actions. And for the delays caused by Alwyn, I'm satisfied that paying for the additional costs plus £200 compensation is fair in the circumstances. This amount of compensation reflects that there were delays and mistakes were made which impacted Mr R for some time and required considerable effort on his part to sort out.

### **Putting things right**

To put things right for Mr R, Alwyn Insurance Company Limited should:

- Pay Mr R 75% of the total repair cost for the damage, which was £750. It will therefore need to pay him £562.50 for the repairs, subject to Mr R providing it with an invoice and evidence of payment of that invoice.
- Add to the above amount 8% simple interest per annum, from the date Mr R paid the repair invoice to the date of settlement.
- Reimburse Mr R for his lost rent, from 9 February 2024 until 11 April 2024 when the repairs were completed, subject to Mr R providing a valid, signed tenancy agreement covering that time period.
- Add to the loss of rent calculated, 8% simple interest per annum, from the date Mr R should've received the rent under the tenancy agreement, to the date of settlement.
- Pay Mr R the £200 it offered for distress and inconvenience in its letter of 5 April 2024 if it has not done so already.

### **My final decision**

My final decision is that I uphold this complaint and I direct Alwyn Insurance Company Limited to put things right as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 15 December 2024.

Ifrah Malik  
**Ombudsman**