

## **The complaint**

Mrs J complains about the way Zurich Insurance PLC handled a claim she made for damage to a property insured by it, following an escape of water.

Mrs J is a leaseholder of the property, as well as Mr J. Mrs J is eligible to bring the complaint on behalf of both leaseholders. As Mrs J has been the main correspondent for the claim and Mrs J complains about the way Zurich Insurance PLC handled a claim she made for damage to a property insured by it, following an escape of water.

Mrs J is a leaseholder of the property, as well as Mr J. Mrs J is eligible to bring the complaint on behalf of both leaseholders. As Mrs J has been the main correspondent for the claim and complaint, I've mostly referred to her only in this decision.

## **What happened**

In December 2022 there was an escape of water at Mrs J's property. They had been living at the property before December but had recently moved out and intended – as of December 2022 – to turn it into a rental property. Zurich accepted the claim, however in January 2023 Mrs J wasn't satisfied with the progress of it – no drying expert had visited the property – and she said there'd been a lack of communication from Zurich.

Zurich issued a complaint final response letter on 20 February 2023. It said delays were due to the high demand seen over winter, it didn't accept it had handled matters poorly. Mrs J didn't refer that complaint to the Financial Ombudsman Service at that time.

In May 2023 Mrs J submitted her own schedule of works to Zurich, the quote was for around £45,000. And she made a further complaint to Zurich, this repeated some issues raised previously, but she also raised concerns relating to further delays and Zurich making an unreasonable offer to cash settle the claim. She said whilst she didn't want Zurich to undertake the works, its offer wouldn't allow her to reinstate the property. In total about 40 points of concern were raised.

Mrs J also told Zurich in May 2023 she'd be carrying out temporary repairs to the property in order to let it out to a local authority. This was done and the tenants moved in in September 2023.

In October 2023, the parties agreed to a cash settlement offer of £45,000 for the reinstatement works, based on Mrs J's quote submitted at the start of May 2023.

In November 2023, unhappy that Zurich hadn't responded to her complaint, she referred her complaint (made in May 2023) to this service for an independent review. Having done so, in November 2023 Zurich provided its final response letter (FRL) relating to the complaint that Mrs J had made. That addressed over 50 complaint points, including reviewing again complaint points addressed in the February 2023 FRL.

In summary Zurich accepted it had caused some unnecessary delays, and that the claim settlement took too long. It said it recognised this would have been very stressful for Mrs J and so it offered £1,750 compensation as an apology.

Mrs J asked this Service to consider matters, she said Zurich's offer was rejected and they felt victimised for making a complaint, also some correspondence from Zurich was unpleasant. She said Mr J's health had been impacted by him having to remove mould from the property himself, due to Zurich's delays in handling matters. Mrs J thought the compensation should be significantly higher, and that they'd suffered other losses as a result of Zurich's poor handling of the claim. She said the property could have been rented out in March 2023, but for Zurich's delays in the claim. Because it didn't carry out strip out works which it said it would or respond to Mrs J about carrying out temporary repairs, she says it wasn't until September 2023 that tenants were able to move in. And that was only possible then because they'd funded temporary repairs themselves (which they couldn't really afford). She felt Zurich had caused extensive losses. Those were in summary:

- £18,000 in lost rental income.
- Mortgage payments of £8,000.
- Personal injuries (estimated to be between £2,500 and £10,000).
- Injuries to feelings due to discrimination and victimization.
- Travel costs of £250.
- 200 hours of dealing with the claim, at her hourly rate of £50 per hour.

Our Investigator recommended Zurich increase the compensation award to £2,500 in total. She thought Zurich's unnecessary delays had caused significant distress, but she didn't think its actions had caused Mr J pain and suffering, in line with the guidance on higher awards this Service makes. She thought as Mr J already had the health condition, prior to the claim, and decided to still carry on with doing works himself, she couldn't reasonably ask Zurich to pay compensation for that.

She said Mr and Mrs J had provided a report on their reinstatement costs dated April 2023, and it took too long for these to be agreed. She said given costs were agreed at £45,000, Zurich's initial offer of £27,000 for the works had been too low, which had caused delays in the claim.

For the other losses claimed, our Investigator didn't make any further awards, she didn't think loss of rent was payable under the policy, as there was no tenancy agreement in place at the point the claim happened.

Zurich accepted the increased compensation payment. Although it did say it had offered reinstatement of the property, which it considered would have been quicker than Mr and Mrs J doing the work themselves. So it didn't think it was responsible for a delay in the claim.

Mrs J didn't accept the outcome of the Investigator. She asked for an Ombudsman to consider matters. She said Mr J had no choice but to remove the wallpaper (and so come into contact with the mould) as they couldn't afford the mortgage payments on the property whilst it was empty. She felt given the delays Zurich should be held responsible for lost rental income and council tax payments. She said Zurich has also refused the offer of alternative accommodation for those in the property, whilst the works were then being completed.

As the matter wasn't resolved, it came to me to decide. In November 2024 I issued a provisional decision on this complaint. I said I largely agreed with the outcome of our Investigator but – in addition to the compensation of £2,500 – Zurich should pay for some lost rental income as a result of the delays it caused. A copy of what I set out in my provisional findings is below:

*Zurich has accepted it failed Mrs J in its handling of this claim. It accepts the claim was delayed and it took too long to agree the settlement. So I don't intend to set out its failures in detail in my findings.*

*Having reviewed the recommended findings of our Investigator, I am in agreement with most of them, so I'm not going to repeat everything as part of this decision. I'll focus on the matters mostly still in dispute, which are the Investigator's finding that Zurich doesn't need to make a specific award for Mr J's saying his health had been impacted by the claim, and that it doesn't need to pay for lost rental income.*

*I intend to decide that, as well as awarding the further compensation recommended by our Investigator, Zurich should also pay some loss of rent to Mr and Mrs J given the delay it caused in settling the claim. Our Investigator thought that, as loss of rent wouldn't be covered under the policy as there was no rental agreement in place at the time of loss, an award for this wouldn't be appropriate. But I'm minded to decide that the lost rental income isn't payable under the policy terms, but it should be paid as a foreseeable consequential loss caused by Zurich's delays. I'll comment on council tax too. So I've set out my reasons below.*

#### *Delays in the claim*

*I find there were two delays Zurich is responsible for. The first relates to drying of the property. Zurich's drying contractor (P) attended at the end of January; an email provided to this service by Mrs J shows that, on 3 February, P said:*

*"Drying equipment was installed on Friday and the survey report has been sent to [Zurich] regarding what strip-out work we would recommend be carried out by a contractor."*

*However, in a follow up email sent at the end of March, P said it hadn't had a response to authorise strip out works. And I haven't seen any evidence that Zurich ever did respond or authorise those works. Which meant that even by the time Mrs J submitted her quote for reinstatement works in May 2023, there were still moisture issues in the property and a three-week drying period was recommended, following the strip out works.*

*Its not clear to me why Zurich never authorised these works, the only evidence I've received at all on this has been from Mrs J. It could be that, as Mrs J had suggested in January 2023 that she wanted to use her own contractors, Zurich thought it didn't need to organise strip out works. But even if that is the case, I can't see that it properly explained to Mrs J the implications of appointing her own contractor – or indeed gave her authorisation to complete strip-out works. And it's clear to me from her emails that she was expecting Zurich to do the drying and stripping of the property. I can't see it responded to her emails on this or progressed matters as I'd expect.*

*Zurich then caused a delay in cash settling the claim. Mr and Mrs J provided a quote to repair the property totalling £45,000. The quote is dated 25 April 2023. I don't know exactly when this was first provided to Zurich, but I can see it was likely in receipt of it in very early May 2023. Zurich agreed to this quote in October 2023. Its file notes:*

*"The works specified in the quote were in order, and whilst the costs were expensive (though not exorbitant), on discussion...it was agreed that this would be the pragmatic route to conclude matters."*

*Given the comments, that the costs were not exorbitant, and the quote was in order (which I take to mean in line with the damage caused by the insured event), Zurich hasn't provided a satisfactory explanation as to why it took around six months to settle at this cost.*

*I can see it did make other offers to Mr and Mrs J of £12,000 and then an increased offer of around £27,000 in around April 2023. However, given the final agreed amount (£45,000) – I'm not persuaded Zurich has shown that those earlier offers would have been sufficient for Mr and Mrs J to return the property to a pre-loss state. Whilst it did offer to appoint its own contractors, and repeated that offer at various points, including in May 2023 when Mr and Mrs J said they'd carry out temporary repairs, I find that the reason, ultimately, that the claim wasn't settled until October 2023, was down to Zurich's delay in agreeing a reasonable cash settlement offer. I'm satisfied it was not due to Mrs J turning down its request to use its own contractors. Zurich had said given its own lead times that there would be a delay in its contractor starting, with one only going out to first quote for the work three months after the claim was reported. So I'm not satisfied it has shown Mrs J to be the cause of most of the delays.*

*Even with opportunity to reasonably review Mr and Mrs J's quote, I intend to find that it should have agreed it before the end of May 2023. This would have allowed Mrs J to make a permanent repair to her home, rather than the temporary ones she did in order to let the property out. Having reviewed the scope of work provided by Mrs J (for the permanent repairs) it allowed three weeks for drying the property, but that wouldn't have been needed had Zurich authorised the strip out works as I've set out above. So leaving aside that time, from the works needed, which included laying new flooring and plastering, I consider the works would likely have taken no longer than four weeks. Which means the property would have been available to let by the end of June at the latest.*

*I know Mrs J thinks it would have been able to be let earlier than that, in March 2023, but that was on the basis she carried out temporary repairs then, rather than permanent ones. And whilst I understand her reasons for not carrying them out before March 2023, I don't think it would be reasonable for Zurich to pay lost rent from March 2023. Instead, I think it should pay Mrs J's lost rent for July and August. That's because that is the period during which I think, but for Zurich's unreasonable delays, Mrs J would have had the property let (but didn't).*

*I've seen enough evidence from Mrs J to persuade me that she wouldn't have faced any issues in renting the property out earlier, had the works been completed. I've seen the tenancy agreement signed in September 2023, it shows rental income was £2,300 per month, starting in September 2023. So, I think Zurich should pay £4,600 (which is 2 x £2,300 for the two months I've set out). It should also add 8% interest on that amount from the date those rental payments should have been received but weren't, until the date of settlement, to reflect the time she's unfairly been without those funds.*

*The rental agreement also says that the tenant is responsible for paying the council tax. So it follows I think Mrs J's council tax payment would have also been covered in July and August 2023, but for Zurich's handling. And so I'm minded to decide it will need to reimburse those payments made, plus 8% interest from the date the payments were made by Mrs J, until the date of settlement. I don't know what council tax Mrs J would've paid on the property; she can confirm that with Zurich.*

*I note Mrs J has said due to the condition of the property, she couldn't rent it out privately, instead she rented it to a local authority, she says for less income than she'd have received privately. However, I think the fair and reasonable outcome is for Zurich to compensate the loss she likely did have, rather than thinking about any hypothetical unproven loss. I'm not currently persuaded Mrs J would have been able to rent the property out privately, and as quickly and for the price she suggests.*

*Given Zurich settled the claim after the temporary repairs took place and a tenant was in the property, Mrs J has asked for Zurich to cover alternative accommodation for the tenants for*

*when the permanent works took place. Zurich declined as there not being cover under the policy for that. But I intend to find that, but for Zurich's delays, Mrs J wouldn't be in this position. I think its more likely she'd have done a permanent repair to her property, before tenants moved in, to reduce the risk of incurring further losses at a later date. As I've said I consider the works likely to take no more than four weeks, I also intend to find that Zurich should pay a further month of lost rental income. This would allow Mrs J to rehouse her tenants when the works take place.*

*Given the length of time that has passed, Mrs J may have had this work completed already. I accept her tenants might not have needed to move out for those repairs. However rather than me investigate this further, I consider it more practical for me to make an award now, rather than prolong the complaint in order to draw matters to a close for both parties. So, for what I've set out above, I intend to award Mrs J £2,300. However, because this isn't a loss I know has, or will be incurred, I'm not going to make Zurich award interest on this amount. I'm also not going to ask Zurich to cover any council tax payment for that extra month, for the same reasons.*

*That issue of upset aside though, like our Investigator, I'm satisfied Zurich's poor handling caused significant distress and inconvenience. Mrs J said she felt victimised for making a complaint. I can see from emails she sent that often questions she posed went unanswered, or email responses from Zurich didn't give much detail, meaning she didn't fully understand what was happening with the claim. I can see this would have been very distressing. I intend to decide an award totalling £2,500 compensation, encompassing the sum of £1,750 offered by Zurich previously, recognises the impact of Zurich's poor handling on this claim.*

#### Responses to the provisional decision

Zurich didn't provide a response to the provisional decision. Mrs J did. She said she didn't agree with all of the findings, but in order to move on she'd accept the outcome. She did make the following points:

- They didn't start their own repairs earlier as Zurich didn't confirm – when asked – if that would invalidate their claim cover.
- Had then repairs been done earlier; they'd have suffered less loss of rental income.
- Council tax for the property would have been around £377 for two months (with a screenshot from an official website showing the council tax rates for the property)
- Zurich hadn't made any payment of compensation as yet.

#### **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 thank Mrs J of her confirmation of council tax payable on the property, so it can be included in the amount for Zurich to pay without any further delay.

I understand the point Mrs J makes regarding the repairs not starting earlier due to Zurich's lack of commitment that it wouldn't invalidate cover. She says they asked Zurich about this from April 2023, so for around a month before they did start their own repairs. She also said that information wasn't in her policy documentation, so they needed a response from Zurich. I understand this wasn't information that was readily available to them. But I also would have to be persuaded that, had Zurich confirmed cover wouldn't be impacted, that this would have meant the property would have been ready to let out earlier than June 2023 as set out in my

provisional findings as the date I think the property would likely have been ready, but for Zurich's delays. Based on what I've seen I'm not persuaded that was most likely the case.

So, I still think Zurich should pay loss of rent in line with what I've set out in my provisional findings. I also still find, for the reasons set out in my provisional decision, that Zurich should reimburse Mrs J council tax payments made and pay compensation for unnecessary distress and inconvenience caused.

### **Putting things right**

To put matters right Zurich Insurance PLC will need to pay:

- A total of £4,600 for lost rental income for July and August 2023. It will need to add 8% simple interest onto each rental payment from the date of the payment, until the date of settlement.
- A total of £2,300 for lost rental income likely incurred when the permanent repairs were carried out at the property
- Council tax payments for two months at a total of £377, plus 8% interest on that amount from the date those payments were made, until the date of settlement.
- £2,500 compensation in total, minus any amount already paid.

### **My final decision**

My final decision is that I uphold this complaint and I direct Zurich insurance PLC to settle the complaint in line with the "putting things right" section above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs J to accept or reject my decision before 7 January 2025.

Michelle Henderson  
**Ombudsman**