DRN-5843491

The complaint

Ms M complains that ECCLESIATICAL INSURANCE OFFICE PUBLIC LIMITED COMPANY (EIO) has unfairly declined to provide cover for all the losses she incurred following damage to her leasehold property.

What happened

Mrs M owns a leasehold property which she rents to tenants. She has the benefit of an insurance policy provided by EIO and in September 2024, the property was damaged following a flood.

Ms M told EIO that she intended to make a claim for her losses. Her tenants had underlying health conditions and Ms M said upon legal advice being sought, she had an obligation in statute to make reasonable adjustments and provide protection to those she is providing a service to, who have protected characteristics. Ms M said the property in its condition following the flood and repair work needed, meant it was uninhabitable for her tenants condition.

Ms M found alternative accommodation for her tenants for a period of 48 days and paid for the alternative accommodation costs and temporary storage costs for her tenants contents while the property was dried and repaired.

EIO accepted the property was uninhabitable but didn't think Ms M was liable for the alternative accommodation costs of her tenants or temporary storage. It said in line with the policy terms, it only needed to cover the costs Ms M was liable for and it agreed to make a loss of rent payment equivalent to 48 days only.

Ms M complained about the claim decision and EIO maintained its position.

EIO agreed to reconsider the temporary storage costs on receipt of evidence to show it wasn't possible for Ms M's tenants to move contents to other areas of the property. Our investigator felt this was fair and this was looked at as a separate matter.

With the alternative accommodation costs, they felt EIO needed to go further. They recommended it cover the alternative accommodation costs Ms M incurred, less any loss of rent payments which had been made as they didn't think it was fair to expect it to provide cover for both of these.

They said the policy wording was clear and it sets out, cover is only in place for alternative accommodation costs that Ms M is liable for and the tenancy agreement didn't set out an obligation on Ms M to cover this. But they felt it was fair and reasonable, based on the circumstances of Ms M's tenant and their needs, that EIO went further and provided the alternative accommodation costs. They said they had taken the Equality Act 2010 into consideration but their opinion was based on what was fair and reasonable.

EIO didn't agree to the recommendation. It felt the wording of the policy was clear and its liability was limited to what Ms M would need to pay under the tenancy agreement. There

was no obligation to provide alternative accommodation and Ms M decided to do this herself without a need. It also highlighted that it felt the rent should have continued to be paid and it agree to cover this because it was agreed the property was uninhabitable.

Our investigator responded to say that although the tenancy agreement was silent on whether Ms M was liable for the alternative accommodation costs of her tenants, together what she had said about advice being give, he felt she also had an obligation to abide by the Fitness for Human Habitation Act 2018. The property had been deemed uninhabitable and it could be said not to be fit for human habitation and the tenants had a right to take Ms M to court for compensation if this wasn't provided. So, a liability for this had been created and they remained of the opinion the accommodation costs, less the loss of rent should be paid.

EIO responded and said it didn't agree this obligation was formed. It felt its liability was limited to the policy terms and Ms M had no liability set out in the lease to provide alternative accommodation. It is also not known if the tenants had their own insurance which provided cover for temporary accommodation.

Our investigators opinion remained unchanged and the case was referred for decision.

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've decided to uphold this complaint and will explain why I feel it is fair that EIO covers the cost of the alternative accommodation Ms M provided for her tenants but why it isn't fair this should also include a payment for loss of rent.

The crux of this complaint is whether EIO has acted fairly and in line with the policy terms when settling the claim following the flood damage to Ms M's property. It argues the terms are clear as to its liability. The relevant term of the policy here is:

"49 Private residences (loss of rent and temporary accommodation)

If any private dwelling house or private flat (described as such in the schedule) cannot be lived in following damage insured by this section (or in the case of a private flat if the resident is denied access to it by an insured event elsewhere within the building) we will pay for
a. loss of rent (including ground rent and service charges) payable to you
b. the reasonable and necessary additional costs that you are liable for in respect of;
I. residents' temporary accommodation and storage of furniture
II. kennel accommodation for the residents' domestic cat(s) and dog(s)
III. travelling expenses

until the private dwelling house or private flat is fit to live in again or until access is restored."

EIO has highlighted the rental agreement between Ms M and her tenant does not set out that Ms M is liable to provide alternative accommodation if the property cannot be lived in. It feels any action she took when feeling morally obliged to provide accommodation does not constitute liability and by default, does not extend the liability of its policy and cover.

I agree the tenancy agreement does not set out an obligation on Ms M to provide alternative accommodation. However, the wording of the policy does not specify the liability for additional costs needs to be set out within the tenancy agreement, but that costs Ms M is liable for will be covered.

Ms M explained to EIO when the claim was logged that she had taken legal advice about the tenants in her property and what was required of her as the landlord. The focus of this advice was around the Equality Act 2010. She said she has a statutory duty to make reasonable adjustments and provide protection to those she is providing a service to, who have protected characteristics. If this wasn't done, Ms M said she could be seen to be discriminating against her tenant.

Our investigator said they took account of the Equality Act when reaching their view, but they couldn't make a finding on whether there had been a breach of this and Ms M would need to go to court to determine if this is the case. I cannot make this finding either, but I don't think I need to when determining the outcome of this complaint and what is fair and reasonable.

The policy wording does not specify how Ms M must become liable for additional costs. So, I don't think it is fair to say the absence of this being set out in the tenancy agreement removes any liability from Ms M. She made the arrangements for the alternative accommodation, not through her own moral belief this should happen – as has been indicated by EIO, but on the advice that as a landlord and the circumstances of her tenants, she had a duty to make reasonable adjustments. And she felt this extended to making sure she provided safe habitation for the tenants when her property was deemed uninhabitable.

I think the actions taken were reasonable, to both seek advice and rely on this advice. The result is Ms M had a reasonably held belief that she was liable to provide alternative accommodation to her tenants. And following the wording of the policy, these were both reasonable and necessary costs she was liable for. I appreciate EIO has said this is not the intention of the policy wording, but I don't think it has demonstrated Ms M was not liable for these costs and it not being set out in the tenancy agreement doesn't remove the obligations on her.

I don't think it would be fair to expect both the loss of rent to be paid and alternative accommodation costs. When a tenant is offered alternative accommodation by their landlord, the rent paid is in consideration for the accommodation offered. The policy wording does not specify that "either, or" will be paid when setting out the cover in place. But if the tenant has not paid their rent during a time when alternative accommodation was provided, I don't think it is fair to say EIO should be liable for both these costs. And I've not seen the rent was not due still based on the wording of the tenancy agreement.

Ms M took steps to make sure she made reasonable adjustments for her tenant and provided accommodation at a cost to her. She explained the steps taken when booking the accommodation chosen and I think this demonstrates the cost was reasonable. It follows that the additioanl costs incurred when arranging this accommodation are something that I think EIO should cover, when applying the terms of the policy and a fair expectation on these.

I've not considered whether the Fitness for Human Habitation Act 2018 also created a liability on Ms M to provide accommodation for her tenants, as I don't think this is needed. And while EIO has raised concerns about whether the tenants themselves had cover in place for the cost of alternative accommodation, the loss claimed for here is Ms M's and on receipt of her demonstrating her loss, it is right this is covered for the reasons I've set out.

Putting things right

EIO has offered to pay £1972.60 for 48 days loss of rent. Ms M arranged alternative accommodation for this period of time at a cost of £4,504.07.

I think it is fair and reasonable that EIO cover the reasonable costs incurred by Ms M when providing the alternative accommodation costs making arrangements for her tenants in line with the obligations, she was advised she had for them. So, it should pay her £4,504.07.

If EIO has already paid the £1972.60 previously offered, it need now only pay the difference between this and the sum of £4,504.07.

In line with our approach when a claimant is deprived of monies they should have had available to them sooner, it should add 8% simple interest to this payment from the date it offered to pay the loss of rent payment, until the date the balance is paid.

My final decision

For the reasons I've set out above, I uphold Ms M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 24 February 2026.

Thomas Brissenden
Ombudsman