

## **complaint**

Miss N complains that U K Insurance Limited (Sainsbury's) mishandled her home insurance claim. She says it caused delays, didn't complete the work as it should have done, and offered an unfair settlement.

Miss N is being represented in this complaint. For ease, references to Miss N include the actions and comments etc. of her representative. Similarly, references to Sainsbury's include its agents/representatives.

## **background**

I issued my provisional decision in April 2021, which set out the background to the case and what I was minded to decide:

*In July 2016, Miss N made an escape of water claim on her buildings insurance policy, for a leak under the floor in her kitchen. In November 2016, she reported that she was unhappy with the drying work and a new company was appointed to complete this. Around that time, she complained that Sainsbury's contractors had lost/damaged some of her items – and it offered her £250 compensation. Our service reviewed that complaint and didn't recommend that Sainsbury's should do anything more.*

*It was agreed that Sainsbury's would cover alternative accommodation due to the damp etc. in the home. After some short-term stays, a six-month rental was agreed from January 2017 (which was subsequently extended). Miss N says she had to pay bills on both homes, and she couldn't keep her pets in the new property. She also says the location meant her daughter couldn't keep up her usual extra-curricular activities. Sainsbury's says she found and chose the accommodation – and didn't raise any problems with it at the time. Miss N says this is incorrect, and that a complaint was raised to two firms who deal with sourcing accommodation for insurance claims, which confirmed there were no suitable alternatives.*

*Sainsbury's made a settlement for the buildings damage in March 2018, which Miss N was unhappy with. Around that time, Sainsbury's stopped providing alternative accommodation. Miss N says there were outstanding costs relating to this, and she and her partner had to stay separately with family – meaning they couldn't live together with their daughter.*

*When Miss N complained about the settlement as well as delays and missed works throughout the claim, Sainsbury's offered £500 compensation. But it said the settlement was fair as it wasn't required to pay more than it would have spent getting its own contractors to repair the damage.*

*Miss N referred the matter to our service. She said there were outstanding invoices to be paid. Our investigator recommended that Sainsbury's should increase the compensation to £750 in total. She also thought Sainsbury's should pay any increased bill costs and council tax Miss N paid during her period in alternative accommodation, subject to her providing reasonable evidence of this. She thought the claim had otherwise been settled fairly.*

*Sainsbury's ultimately agreed to pay the increased compensation. It also agreed to increase the buildings settlement to match a surveyor's estimate of the damage provided by Miss N. It said it would also pay for the cost of this survey, and it would pay VAT on top of the damage estimate if she could evidence that this has been paid.*

*Miss N maintained there were outstanding costs. Such as for electricity, storage, bills and accommodation. Following this, Sainsbury's agreed to pay a further £180 for skip hire, £1,000 towards a sofa suite that was damaged, and anything remaining of the £25,000 limit for alternative accommodation offered under the buildings cover.*

*Miss N said costs were still outstanding, the compensation wasn't enough, and she should receive VAT as she paid it on materials for the works.*

*I then issued a provisional decision in February 2021. I awarded some additional costs but not everything Miss N said outstanding. I explained, based on what I'd seen, I was minded to direct Sainsbury's to pay:*

- 1) Anything remaining of the £37,068.30 settlement for the buildings damage*
- 2) £1,080 (including VAT) for the report dated 31 January that was used for the basis of this settlement*
- 3) £750 compensation*
- 4) A further £1,000 for the sofa*
- 5) £360 for the two outstanding skip invoices*
- 6) £70 for the phone reinstatement*

*I invited both sides to provide any further comments and evidence in response to my provisional decision. Sainsbury's accepted my findings, but Miss N disagreed. In summary she said information from Sainsbury's had been presented as fact with little or no evidence; the references to the settlement date didn't reflect the true circumstances of the claim; extensive evidence supported in support of the claim has been dismissed; and that the decision contained incorrect information. She submitted further invoices which she said were outstanding. As this is new evidence, I consider it necessary to issue a further provisional decision.*

### **my provisional findings**

*I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I've provisionally decided to partially uphold it. I've explained why below, along with what I think Sainsbury's needs to do to put things right.*

*Please note that Miss N has provided detailed submissions about this complaint. I've read and considered all of these, but I haven't responded in similar detail. If I don't mention a particular point or piece of evidence, it isn't because I haven't seen it or thought about it. It's just that I don't feel the need to reference it to explain my decision. This isn't intended as a discourtesy, it's just a reflection of the informal nature of our service.*

### **Settlement amount**

*Subject to the remaining terms and conditions, Miss N's buildings insurance policy covers her for loss or damage caused by water escaping from fixed water or heating systems; underground drains and pipes' domestic appliances; and storage tanks. It's not in dispute that her claim following the leak in her kitchen is covered.*

*The terms go on to explain that Sainsbury's will choose whether to*

- “manage and pay for repairing or rebuilding the damaged part using our own suppliers;
- pay to repair or rebuild the damaged part using your suppliers; or
- make a cash payment.

*We won't pay more than the amount it would have cost us to repair or rebuild the damaged part using our own suppliers.”*

*It also clarifies that the limits set out under each area of cover, such as the total sum the policyholder has insured their building for, still apply.*

*Sainsbury's made a cash settlement in March 2018, matching what its suppliers estimated it would have cost them to repair the damage. Miss N disagreed with this figure and it's not in dispute that there were instances when some works were incorrectly excluded from the estimates. The figure was later increased, seemingly to match an estimate she provided. But she says it only offered to increase the settlement by £5,070.17 in February 2019, rather than £5,646.17 as needed to match her surveyor's estimate of £37,068.30.*

*I accept there was some confusion about how much more needed to be paid to match the surveyor's estimate. From what I've seen this was due to the other payments that were paid at the same time as the building's damage settlement. But I can't see that Miss N clearly set that out to Sainsbury's at the time. Had she done so, given that it was in principle agreeing to match her valuation, it seems likely it would have accepted this (as it did when I questioned it about this point).*

*It's important to note that, when I'm considering this settlement, this doesn't include any VAT that may be payable on top of the actual cost for the damage. I'll address VAT separately below. What I'm considering here is the value of the actual buildings damage being claimed for. Given that Sainsbury's isn't required to pay more than its suppliers would spend, and as the figure it's willing to pay matches the highest valuation provided by Miss N, I'm currently satisfied that the total settlement offered – £37,068.30 – is fair and reasonable. And whilst I wouldn't expect Sainsbury's to cover all and any surveyors Miss N chose to hire, it's agreed to reimburse her for the January 2018 report given its significance in progressing the claim.*

#### VAT

*Sainsbury's hasn't paid Miss N the VAT calculated in her surveyor's report. Although she says she paid VAT on materials purchased to do the works, our service doesn't generally expect insurers to pay VAT on top of the damage costs unless incurred and paid to a VAT-registered contractor. That's because VAT doesn't form part of the cost of the repair work itself. If VAT is charged by a contractor, they have to pay it on to HMRC – meaning they're effectively collecting tax revenue for the government.*

*Ultimately, Miss N can choose how to use the settlement. She's not required to complete the works. And she may be able to get the work done without hiring a VAT registered contractor. Sainsbury's maintains that it will pay VAT if Miss N can evidence that she's paid this to a VAT-registered contractor to get the works done. But I've seen nothing to suggest that happened. So I'm not minded to direct Sainsbury's to pay VAT on top of its settlement.*

Alternative accommodation

*My understanding is that the following has been paid under alternative accommodation:*

- 1) £4,625 in January 2017 for six-months accommodation, comprising of £725 for rent per month plus a £275 application and holding fee. Miss N and her family subsequently stayed in this property until mid-April 2018.*
- 2) £1,304.50 in January 2018 for a stay of around a month in November and December 2016.*
- 3) £1,200 in February 2018 for disturbance allowance whilst staying with family and friends prior to a longer term rental being secured*
- 4) £3,772 for kennel costs in March 2018*
- 5) £14,089.50 in August 2018 for what Sainsbury's said was the remainder of the £25,000 alternative accommodation limit available under Miss N's buildings insurance.*

*Miss N maintains that various costs remain outstanding. She's sent our service various invoices relating to this. My role here isn't to handle the claim, but I'll set out how I think the alternative accommodation costs should be considered.*

*I'm conscious that Sainsbury's paid Miss N £31,442.13 for the building damage in March 2018. Miss N says this was offered in January 2018, challenged, and then declined. But this doesn't detract from the substantial payment that was made. She says her builder wasn't able to proceed due to the delay in payment from Sainsbury's. But I've not seen anything to substantiate this. Nor do I agree that Miss N would have been unable to make the house habitable after receiving the payment of £31,442.13 around March 2018.*

*So, whilst the March 2018 payment is less than the amount Sainsbury's ultimately agreed to pay, I'm satisfied it would have been enough to make the property habitable. And when settling in cash, the insurer doesn't hold responsibility for the time taken by the policyholder or their workers to arrange and complete the repairs. I've also not seen evidence that Miss N promptly and clearly set out to Sainsbury's why she thought more was due. So, in general terms, I don't consider it reasonable to expect Sainsbury's to pay alternative accommodation costs going beyond March 2018.*

*That said, I do think Sainsbury's has made an error in how it considered the alternative accommodation limit. It capped this at £25,000 - in line with the limit available under Miss N's buildings cover. But she also claimed under the contents cover, and this also provides a £15,000 limit for alternative accommodation. So on receipt of evidence of any further reasonably-incurred costs that would fall under alternative accommodation cover (such as kennel costs duplicated household bills and kennel costs), incurred prior to April 2018, I think Sainsbury's should pay these. This will be subject to the overall £40,000 limit, taking into account the amounts it's already paid.*

*I'll offer a little more detail to help both sides understand what this will entail. I wouldn't expect Sainsbury's to pay further kennel costs, disturbance allowance, or storage and moving costs incurred after it paid over £30,000 in March 2018. By that point Miss N was responsible for arranging the repairs. But it does appear that there may be some earlier outstanding costs – for example, earlier kennel costs. Additionally, Miss N says she was incurring bills (water, gas and electricity, and council tax) at both her insured property and her alternative accommodation. In principle, subject to the limits/expectations set out above, I consider it reasonable that Sainsbury's should pay the duplicate bills for her uninhabited property – if these go beyond the amounts already paid (such as the £14,089.50 paid in August 2018, which wasn't specifically allocated for any particular costs).*

*Also relevant to this is that Miss N says there are outstanding costs for electricity used during the drying process. £812.16 was paid for drying costs in a payment made on 30 January 2018. She says this only covered the second period of drying from November 2016 to February 2017, not the first from August to November 2016. But having seen the overall level of her gas and electricity bills during that period, it doesn't substantiate that the £812.16 already paid isn't enough to cover the additional electricity costs she incurred as a result of the drying. As this is a payment made towards her electricity use, Sainsbury's can take this into account when consider what bills remain outstanding – as this in part covers electricity costs when Miss N had already moved into her alternative accommodation in January 2017.*

*To enable Sainsbury's to consider whether there is anything further to pay, I suggest that Miss N sends it all the invoices that she considers to be outstanding.*

### Compensation

*It's not in dispute that Sainsbury's made errors in how it handled this claim. It caused delays and some of the works it did (such as the drying) weren't of the expected standard. I accept what Miss N has told us about impact this had, including the specific instances she's focussed on such as the circumstances surrounding the £31,442.13 settlement in 2018.*

*When considering particularly the impact of the delays. I'm mindful that not all the issues Miss N is now reporting were clearly and efficiently flagged up with Sainsbury's at the time. It's taken some time even with us to clarify what she feels is outstanding.*

*I'm only able to award compensation for distress and inconvenience Miss N herself suffered, caused by errors on Sainsbury's part. So, I can't award compensation for the unavoidable stress of the leak and resultant claim. Nor can I do so if I consider Sainsbury's actions reasonable in the circumstances.*

*Bearing that in mind, as well as what Miss N has told us about how the claim has affected her, I'm satisfied £750 compensation is a fair reflection of the substantial impact Sainsbury's errors had on her.*

### Other costs

*Whilst these points seem to have been accepted by both sides, for the sake of completeness I'll cover off the remaining amounts that need to be paid. Sainsbury's has agreed to pay a further £360 for skip hire, in addition to £180 previously paid. This matches the invoices I've seen. It's also agreed to pay £70 for reinstating her phone line – as the contractors agreed to pay a settlement for “reinstatement” of the property (i.e. to return it to its pre-loss state). And it's accepted that Miss N made a typo when submitted her contents list, and so it will pay a further £1,000 for her sofa suite. I'm satisfied this is all fair, as it matches the evidence and invoices I've seen.*

### **my provisional decision**

*For the reasons given above, I've provisionally decided to partially uphold this complaint and direct U K Insurance Limited to pay:*

- 1) Anything remaining of the £37,068.30 settlement for the buildings damage*
- 2) £1,080 (including VAT) for the report dated 31 January 2018, which Miss N provided that was used for the basis of the settlement figure*
- 3) £750 compensation*
- 4) A further £1,000 for the sofa*
- 5) £360 for the two later skip invoices*
- 6) £70 for the phone reinstatement*
- 7) any further reasonable alternative accommodation costs incurred up to March 2018 which Miss N can show remain unpaid, subject to the overall limit of £40,000 for this section of the cover.*

*8% simple interest per year will apply to items four to seven, from the date Miss N can show she evidenced these costs to Sainsbury's to the date of settlement.*

I invited both sides to respond. Sainsbury's confirmed it largely accepted my findings, but queried point seven. It explained it didn't want to leave it open-ended for Miss N to submit further costs. Miss N disagreed. So, taking into account those response (the key points of which I've referred to in my findings), I'm now making the final decision.

### **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so, I've largely reached the same conclusions as I did in my provisional decision. Except that, as agreed with both sides, it won't be left open ended for Miss N to submit further costs. She's confirmed she's already submitted everything to me, so I'll pass this evidence on to Sainsbury's for it to consider.

I've addressed the key points Miss N has raised, to explain why I otherwise haven't departed from my provisional findings. I've fully read and considered Miss N's detailed response. But I don't consider it appropriate or necessary to refer to all her points to explain my decision.

### settlement amount

Miss N queries how Sainsbury's reached its own estimates to repair the damage, stating that she wants evidence of this. But I don't need this to reach my decision. This is because the settlement isn't based on those estimates. Sainsbury's accepted the estimate from her survey – the cost of which it's also agreed to cover. I don't consider it warranted to award interest on top of this, as Sainsbury's has already gone beyond its strict liability by agreeing to match her estimate (and reimburse the cost of this).

Additionally, whilst Miss N says she repeatedly challenged the £5,070.17 discrepancy with the increased settlement, she hasn't shown me evidence that she clearly set this out to Sainsbury's at the time. Nor did she accept this increase when it was offered. So whilst I agree that Sainsbury's should now pay the remaining amount, I can't fairly award interest for loss of use as Miss N didn't agree to receive the increased amount. Overall, I've seen nothing which changes my provisional findings on this point.

### VAT

Miss N says VAT formed part of the repair works and evidence has been provided. But this doesn't take on board the explanation in my provisional decision that I'd only expect VAT to be paid if it had been paid to a VAT-registered contractor. So I haven't departed from my provisional findings on this issue.

### alternative accommodation

Miss N says she's accepts the house could have been made habitable following the payment in March 2018. But she was disputing the amount and that it was a final payment. And the earliest it could have been made habitable was July 2018. I've already explained above why, once the settlement was made, I don't consider it appropriate to keep directing Sainsbury's to cover the costs Miss N says stems from the house being uninhabitable. There is also a mitigation of loss point to consider. We'd expect policyholders to minimise the costs they incur. Yet it doesn't appear the repairs works were started or completed promptly after the payment was made. I understand there may have been issues following through on the quotes given the gap, but again I can't see this was pursued (or that an alternative option was arranged) promptly.

Miss N also says the additional bill costs should be covered. I've already explained above how and why I think duplicated bills should be covered, up to the combined limit of £40,000 – so that Miss N is only paying for the bills she had use of. As mentioned above, Miss N has confirmed that she's already sent in the bills and invoices she's claiming. So I'll pass these on to Sainsbury's directly.

I know Miss N has also raised that she challenged the alternative accommodation at the time. From what she's told us, it seems clear that no better alternatives were available. In any event, this point doesn't have a bearing on what I've awarded for alternative accommodation. I've therefore reached the same findings on this point as I did in my provisional decision.

### compensation

Miss N disagrees with my statement that not all the issues she's now reporting were clearly and efficiently flagged to Sainsbury's at the time. I've considered her comments and the records she's provided of her contact with Sainsbury's (alongside those provided by Sainsbury's). I'm still of the view that her communication with Sainsbury's did, at times, make it difficult to identify and address what was outstanding. Whilst she states that her partner is also a policyholder, I don't have details of this and only she has raised this complaint. In any event, even accepting that her partner may have an interest in the policy, I'm still satisfied £750 compensation is fair for the overall impact of Sainsbury's errors – which I agree was significant.

### **my final decision**

For the reasons given above, my final decision is that I partially uphold this complaint. I direct U K Insurance Limited to:

- 1) Pay anything remaining of the £37,068.30 settlement for the buildings damage
- 2) Pay £1,080 (including VAT) for the report dated 31 January 2018, which Miss N provided that was used for the basis of the settlement figure
- 3) Pay £750 compensation
- 4) Pay a further £1,000 for the sofa
- 5) Pay £360 for the two later skip invoices
- 6) Pay £70 for the phone reinstatement
- 7) Consider any outstanding alternative accommodation costs, in line with the invoices I've sent it, incurred up to March 2018. This should include paying the *duplicate* bills for the uninhabited property. This is subject to the overall limit of £40,000 for this section of the cover.

8% simple interest per year will apply to items four to seven, from the date Miss N can show she evidenced these costs to Sainsbury's to the date of settlement.

If Miss N accepts this decision, it becomes legally binding on both parties. So she wouldn't then be able to take legal action in relation to any issues covered in this case. On the other hand, if she rejects the decision, whilst that won't affect her legal rights, it will mean that Sainsbury's wouldn't be obliged to comply with my 'order' – so it would then be purely a matter of goodwill as to whether it honours what I've suggested. Legally, an offer isn't binding until unconditional acceptance of it has been communicated by the offeree.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss N to accept or reject my decision before 20 June 2021.

Rachel Loughlin  
**ombudsman**