

The complaint

Mr W's complaint is about Accelerant Insurance Europe's handling of a claim for water damage to his property under a buildings insurance policy.

What happened

Mr W owns a flat which he rents out. The freehold of the building is owned by a housing association. As a leaseholder he was provided with insurance cover under the housing association's policy with Accelerant.

In June 2021, Mr W contacted Accelerant to make a claim as his flat had been flooded after an escape of water from an upstairs property.

Accelerant accepted the claim and appointed a loss adjuster. However, Mr W complained in July 2022, as the property repairs had still not been completed. He said the property was only stripped out in December 2021, six months after the leak and the bathroom and flooring had not been replaced. As the property was still not habitable, Mr W said he was unable to rent it out and so was losing income. Mr W pointed out that another flat damaged by the same incident had been repaired within six months.

In September 2022, Accelerant agreed that there had been delays and apologised to Mr W. It arranged for another loss adjuster to take over the claim. Accelerant also agreed to pay for loss of rent and additional electricity costs incurred as a result of drying the property out. However, I understand there were further delays after this, as the contractors appointed went into administration and so Accelerant had to find other contractors in late 2022. As at April 2023, the work had still not been completed. I do not know if the work has now been completed or not.

Mr W is not happy that the payments from Accelerant have compensated him fully for the financial losses he has been caused by its delays. He says he had to pay the council tax on the flat while it couldn't be let out (over £3,200 for the period September 2021 to January 2023) when this would normally be paid by tenants; and he would have increased the rent charged since June 2021 and so this should be reflected in the loss of rent payment.

Mr W also asks for compensation for the stress, anxiety and trouble he has been caused, including having to chase phone calls and updates from the loss adjusters. Mr W says he is disabled and this should have been prioritised; the rent is his income.

Accelerant did not agree to make any payment towards the council tax or the potential rent increase, so Mr W brought his complaint to this service.

One of our Investigators looked into the matter. She said there had been considerable delays and so while the policy doesn't cover utilities or council tax, she thought that Accelerant should pay half the council tax that Mr W had paid and £500 compensation.

Mr W confirmed receipt of the Investigator's assessment and has not added anything further.

Accelerant has not responded to the Investigator's assessment, so the matter has been passed to me.

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.

Claims-handling

Accelerant accepted in July 2022 that the claim had not been dealt with as it should have been and that there had been unnecessary and avoidable delay in the repair works on Mr W's flat. I can see the loss adjuster's notes around October 2022 were suggesting everything was in place for the works to be finished by end of 2022. However, the delays continued after that, as there were problems with the contractors and as at spring 2023, the works were still not completed. I am not certain if they have now been completed or not.

While it is impossible for me to determine exactly how long the repairs should have taken, it seems to be accepted that there was at least a year longer than needed. Mr W has made reference to another flat being repaired within six months. It is difficult to say that this is how long his property should have taken, as the damage may not have been the same in each property. But it seems to me that somewhere between six month and year would not be unreasonable for the size of the property and type of repairs needed. It took around two years. So there was considerable avoidable delay in my opinion. I need to now consider the impact this has had on Mr W, if any.

Loss of rent

The policy provides cover for damage to the property as a result of flood and it also provides cover for loss of rent *"incurred by you or the resident of the building during the period necessary to restore the building to a habitable condition if the buildings were rendered uninhabitable due to any loss or damage caused by perils 1 to 13 of this section."*

Perils 1- 13 include flood.

The policy also defines *"Loss of rent"* as being the *"Rent you would have received but have lost (including up to two years ground rent) or anticipated rent in respect of buildings damaged in the course of construction by any cause which would have been insured following completion and handover to you."*

Accelerant has agreed to pay loss of rent at the rate set out in the assured shorthold tenancy in place at the time of the damage to the property. I think this is the rent Mr W *"would have received"* but for the insured damage.

Mr W has said he should also be compensated for the fact he could have increased the rent charged during the time the claim was ongoing. He says rents in his area have increased significantly after the Covid-19 lockdown period ended and he could have charged an additional £200 a month.

As the Investigator pointed out, the policy does not give any provision for rent increases in the event of extended restoration works. However, given that the restoration works have taken longer than they reasonably should, and this is as a result of failings on Accelerant's part, it is reasonable to consider if this delay has caused Mr W additional financial loss. This is not restricted to items covered by the insurance policy.

However, I have not seen any convincing evidence that Mr W would have been able to achieve a higher rent than he had been receiving at the time of the insured damage. It is possible he might have done but it is also possible he'd have continued with the same long-term tenant he had in the property at the same rate agreed with them.

Overall, I am not persuaded that it would be reasonable to require Accelerant to pay an additional amount for potential rent increases.

However, there seems to have been some delay in Mr W receiving some of the loss of rent payments from Accelerant. It is not clear when each loss of rent payment was made but it appears a few months loss was paid at a time but in arrears. As this is an indemnity policy, and the loss of rent would have crystallised at the end of each monthly period the claim was ongoing, I consider that Accelerant should have been paying Mr W for this loss each month. I therefore think it would be fair for interest to be added, at our usual rate, on each month's loss of rent payment from the date it would otherwise have been paid by the tenant, to the date of reimbursement by Accelerant.

I also do not know when the repairs were completed, so for the avoidance of doubt the loss of rent should be paid up to the date the property restoration work was completed.

Council tax

Mr W has also said that because of the delays he has had to pay the council tax on the property which would ordinarily be paid by his tenant. As I consider Accelerant should have had the property repaired a lot sooner than it has, I consider it reasonable to reimburse Mr W for this financial loss, which he would not otherwise have incurred if it were not for Accelerant's delays.

As it is difficult to determine exactly when the repairs should have been completed, and there is also the possibility of delay in getting a tenant in, I consider the Investigator's recommendation that Accelerant pay half the council tax from the date Mr W first had to pay it after the leak (which appears to be April 2022) to the date the property repairs were finished, to be reasonable. It is not an exact science but I think this is fair and reasonable overall. I also think interest should be added to these payments from the date Mr W made each payment to the date of reimbursement.

Compensation

I also agree with the Investigator that some additional compensation is warranted in addition to the meeting of the claim and the reimbursement of the financial losses that I've set out above. As the Investigator pointed out, Mr W was not living at the insured property but I accept the delays would have caused him a great deal of frustration and inconvenience. He also had to spend considerable time chasing Accelerant and its loss adjusters for updates and progress. Having considered everything, I agree that the sum of £500 is appropriate.

My final decision

For the reasons set out above, I uphold this complaint and require Accelerant Insurance Europe SA to do the following:

1. Pay Mr W loss of rent for the period from the date of the first month's lost rent after the insured event to the date the repairs were completed. Interest should be added at 8% simple per annum from the date that each month's rent would have been due under the tenancy agreement, to the date of reimbursement by Accelerant. I

understand Accelerant has already made some payments towards the loss of rent. Any payments it has already made are to be taken into account and it only now needs to pay any remaining outstanding amounts and the interest.

2. Pay Mr W for half of the council tax he has paid for the insured property, since the claim was made to the date that the property repairs were completed. Interest should be added at 8% simple per annum from the date Mr W made each payment to the date of reimbursement by Accelerant.
3. Pay Mr W £500 compensation for the distress and inconvenience caused by its handling of his complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 14 November 2023.

Harriet McCarthy
Ombudsman