

The complaint

Mrs T complains about the service provided by Zurich Insurance PLC when initially investigating her contents insurance claim.

Zurich are the underwriters (insurers) of this policy. Some of this complaint concerns the actions of their appointed agents. As Zurich accept they are accountable for the actions of their agents, in my decision, any reference to Zurich should be interpreted as also covering the actions of their appointed agents.

Mrs T has appointed the services of a loss assessor on her behalf whilst Zurich have investigated this claim. In my decision I'll only refer to Mrs T when referring to any action or communication from her appointed agent.

What happened

The background to this complaint is well known to Mrs T and Zurich. In my decision, I'll focus mainly on giving the reasons for reaching the outcome that I have.

Mrs T made a contents insurance claim under her contents policy with Zurich following a fire at the property in which she was living on 10 May 2019. As part of their consideration and investigation into the claim, Zurich interviewed Mrs T shortly afterwards. Mrs T signed a document which contained the main points from that interview.

Mrs T then had another interview with Zurich. Mrs T was given the opportunity to review the statement that followed that interview and make any necessary changes. Some further communication took place between Zurich and Mrs D as they continued to finalise their investigations into the circumstances of the claim.

In October 2022, Mrs T raised a complaint about the manner in which Zurich had carried out their early investigations into this claim. In particular, the witness statement gathered from her and how the interview had been carried out. Another issue was raised about Mrs T not being provided with a copy of the forensic fire investigation report on which Zurich had largely decided their position in relation to this claim.

Zurich responded and didn't uphold the complaint. As Mrs T remained unhappy, she referred her complaint to our Service for an independent review. Our Investigator considered the complaint and partially upheld it. She recommended that it was unfair of Zurich to not have shared the forensic report with Mrs T and they should do so - unless it contained commercially sensitive information.

On 5 September 2023, our Service shared a forensic fire report with Mrs T. Mrs T responded to say that this was an updated report and not the original, preliminary report. The complaint has now been passed to me for a final 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'm sorry to hear of the impact that the fire has had on Mrs T and her family.

Although a number of issues have been raised, this decision only addresses those issues I consider to be materially relevant to this complaint. This isn't meant as a discourtesy to either party – it simply reflects the informal nature of our Service.

The scope of my decision

It's important that both parties involved in this complaint understand that my decision is only considering the referral to our Service that followed a final response letter dated 9 November 2022. That letter responded to complaint points about the initial interview with Mrs T, the resultant witness statement and not being provided with any evidence that the cause of the fire was the hob being switched on.

This claim was first raised a number of years ago and my decision won't be considering the overall outcome of that claim. I also note that Mrs T has referred a separate complaint to our Service about other issues.

The service provided

Mrs T has referred to being bullied into providing statements and responses she didn't feel comfortable providing, that she wasn't made fully aware of the importance and relevance of her statement, that there was no recording made and her personal circumstances meant she wasn't in a good place to be having interviews or giving statements shortly after the fire had happened.

It's unfortunate that video or audio recordings were not made. However, in my experience although it's usually preferable, it's not always the case that a recording is made.

I note in Mrs T's complaint letter about these issues to Zurich, she's stated (in summary) that she wasn't fully aware of the motives of Zurich when interviewing her. But I've seen no sufficiently persuasive evidence of anything untoward having occurred. It's common across the insurance industry that an insurer may speak to the insured following a claim event like this. I find nothing unusual in Zurich wanting to collect a witness statement from Mrs T following the fire.

Mrs T has referred to various insurance legislation and regulations in her complaint. Our Service will of course consider the law when reaching a decision, but our remit and approach also includes the overarching principle of fair and reasonable. I won't comment on every piece of legislation/regulation referenced.

- The reference to CIDRA, in my opinion, isn't relevant to the circumstances of this complaint. CIDRA relates to the duty to take reasonable care not to make a misrepresentation of the risk at policy inception.
- I've also not found that Zurich have breached their responsibilities under ICOBS (<https://www.handbook.fca.org.uk/handbook/ICOBS/8/1.html>) or that overall they've treated Mrs T either unfairly or unreasonably in relation to this part of the complaint.

Whilst I'm very sorry to hear of the impact of the fire, if Mrs T wasn't in a good place mentally, she had the options of making Zurich aware of this and either delaying the interview (which would usually delay progression of her claim) or arrange an alternative – such as having a representative with her. I've seen no evidence to allow me to fairly

conclude that Zurich arranged the interview with any ill intent and instead, I find it more likely than not they wanted to speak with Mrs T to establish the circumstances of the fire.

I've seen no evidence to support that Zurich were made aware of any issues with Mrs T's mental health at the time that she was interviewed. The email provided (dated 19 November 2019) refers to the Council being made aware on 21 May 2019 and an earlier email from 4 September 2019 refers to Zurich by name. Any issues round data protection breaches by Zurich or other third parties would be best suited to the Information Commissioner's Office. In my decision I'm not considering data protection but the overall Service provided in the early stages of the claim investigation.

I've seen a copy of the statement Mrs T has signed and note a number of changes have been made and initialled by Mrs T. On balance, this leads me to conclude that Mrs T was given a fair opportunity to question any of the facts recorded and make changes she felt were necessary. It follows, that by signing the statement she was acknowledging that she was content with the statement. It's also worth pointing out that this was done a number of weeks (it was signed on 7 June 2019) after the interview had taken place on 20 May 2019. So even in a hypothetical scenario where Mrs T wasn't entirely comfortable with the interview, she had time to reflect and make the necessary changes to the statement without any agents of Zurich applying any perceived pressure she may have felt – or simply not sign it if wasn't an accurate reflection of what she'd said.

As this claim has progressed to the point where Zurich declined it, it's understandable that Mrs T would reflect back on what had happened and whether what she'd said in those early stages of the claim investigation unduly influenced the position taken by Zurich. This complaint (about those early stages of the investigation) was made the best part of three years after the complaint event. Whilst Zurich have questioned why Mrs T would wait so long to raise an issue with how things happened, I've placed limited weight on this point. But I have kept in mind that memories do generally fade over time and much of the correspondence to Zurich in more recent times has been through her appointed loss assessor. Understandably, the loss assessor brings the experience of many years of claims involvement and will seek to act in the best interests of their client.

Having considered the evidence, on balance, I don't find that Zurich have treated Mrs T unfairly when initially investigating this claim.

The forensic report

Although the report is not relevant to my decision (as I'm not considering the claim decision by Zurich) Mrs T not having sight of it does form part of this complaint and the service she received. After our Investigator recommended that Zurich share the relevant report, Mrs T raised issue with what had been shared. Zurich said they'd provided an *'up-to-date and more substantive report from [their] forensic expert that will cover all aspects of their findings'*. Zurich have also said:

"In line with our commitment to the FOS, and to be open with / assist all parties in understanding how our views on the cause of the fire were reached, please find attached forensic investigation report prepared by [third party name redacted by Ombudsman]."

This is an up-to-date and all-encompassing report, which summarises the investigations that have been carried out to determine the cause of the fire and documents the analysis [third party name redacted by Ombudsman] carried out to reach their views on this front."

Putting things right

Although I fundamentally find no issue with what has been provided (the updated report) and would argue that it is likely to show a fuller picture of how Zurich reached the claim decision, in the interests of completeness and transparency Zurich now need to share the original forensic report with Mrs T.

Should the report contain anything commercially sensitive, this can be redacted.

To refer back to my earlier point, it's *not* the remit of our Service to investigate data protection. But my direction is based on our fair and reasonable remit and falls under DISP 3.5.8, DISP 3.7.1 (4) and DISP 3.7.11

<https://www.handbook.fca.org.uk/handbook/DISP/3/?view=chapter>

My final decision

My final decision is that I partially uphold this complaint. Zurich Insurance PLC now need to follow my direction as set out under the heading 'Putting things right'.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs T to accept or reject my decision before 3 January 2024.

Daniel O'Shea
Ombudsman