

The complaint

Mr M complains Zurich Insurance Plc (“Zurich”) hasn’t dealt with his claim fairly on his buildings insurance policy. In particular, he says Zurich:

- Didn’t instruct a surveyor recognised by the Royal Institution of Chartered Surveyors
- (“RICS”) as agreed.
- Has unfairly stopped payments for alternative accommodation and his other expenses.
- Caused further damage to his property during a site visit.
- Hasn’t agreed to cover all damage caused by the insured event.

Mr M is the leaseholder of the property so the freeholder is the policyholder. For ease of reference, I will refer to Mr M only. Any reference to Zurich includes its agents.

Mr M’s raised a number of complaints dating back several years. In September 2023, I issued a decision on what our service can and can’t look into. I decided we can only consider Mr M’s complaints about the points investigated in Zurich’s final response letters of 11 November 2022 and 19 May 2023. So that’s what this Final Decision is about only.

What happened

A lot has happened in this case over a number of years so, whilst I’ve considered everything, I’ll detail the key parts only.

Around September 2019, Mr M made a claim on the policy for an escape of water. He said water had come through his ceiling in the utility cupboard and, his electric and gas meters were damaged. Zurich says it sent a surveyor to assess the damage in October 2019 and ultimately, it offered around £2,200 to settle the claim plus £1,000 to replace his doors. Zurich said, following an inspection of Mr M’s electrics, it found no leak related issues and didn’t offer Mr M accommodation. He says he was left homeless as a result of this decision.

In February 2021, Mr M made a second claim on the policy for another escape of water which he said had come through the kitchen ceiling and damaged his whole property. He said his property was uninhabitable because his consumer unit was damaged by the first leak and his internal doors still weren’t fitted.

Zurich agreed to fit Mr M’s doors as part of the scope of works for the second claim. And whilst it initially didn’t agree to give Mr M alternative accommodation, it eventually agreed to this – and to cover his out-of-pocket expenses, including the cost of storing his belongings.

A number of reports and surveys were carried out on Mr M’s property. A “first visit” report from December 2021 said there were no high moisture readings, and a “second visit” report said, in summary, the areas Mr M had said were damaged suffered from poor workmanship.

As a schedule of works hadn’t been agreed, in November 2022, Zurich agreed to instruct a RICS surveyor to inspect Mr M’s property. Unfortunately, this wasn’t done and instead Mr M’s claim was passed to the major loss team who carried out a visit in January 2023. During this visit, Mr M says Zurich damaged his property.

Following the visit, Zurich offered Mr M £1,500 to repair the kitchen ceiling only as it found no evidence of water damage elsewhere. Mr M was unhappy with the offer.

In March 2023, Zurich told Mr M it thought his property was habitable so his alternative accommodation payments would cease at the end of April 2023. It also asked him to evidence the storage costs he'd claimed. Mr M disagreed his property was habitable due to the consumer unit and his internal doors. He thought Zurich was acting unfairly because it had assessed things years after the leaks happened and therefore couldn't see the true extent of the damage. He was also unhappy the RICS surveyor hadn't been instructed.

Zurich instructed a RICS surveyor chosen by Mr M who attended in May 2023. In summary, the RICS surveyor said the visible damage from the kitchen ceiling leak seemed to be minimal – and they couldn't find related water damage to other parts of the property. But they said further investigation such as pulling up the floor could be done to make sure.

In its final response letter in May 2023, Zurich offered Mr M compensation for not instructing the RICS surveyor earlier. But it didn't think it made a difference to the progress of the claim. And it reiterated Mr M's property was habitable and it still needed to see evidence. In total, Zurich says it's paid around £1,650 in compensation for delays and service issues.

Unhappy with Zurich's response, Mr M asked our service to look into things. In her second assessment, our investigator said Zurich should pay the cost of the alternative accommodation until July 2023 if Mr M provides the evidence it's asked for. She also directed it to pay the cash settlement previously offered. Neither Mr M nor Zurich agreed with the investigator's assessment so the complaint was passed to me to decide.

I issued a provisional decision in August 2023. I said the complaint shouldn't be upheld in summary because I thought:

- Zurich had done enough to make up for not instructing the RICS surveyor as agreed. Even if they were instructed earlier, the progress of the claim would've been no different as their findings were very similar to the major loss team's.
- There wasn't enough evidence to say Mr M's property was uninhabitable. I didn't think he'd taken reasonable steps to show there's damage to his electrics caused by an insured event which stopped him from being able to live at his property.
- Mr M had been given the opportunity by Zurich to show there were leak related problems with his electrics that caused his property to be uninhabitable. But he didn't do so.
- There wasn't evidence Mr M's property was unsafe or unsanitary to live in.
- Having looked at Mr M's tenancy agreement for his alternative accommodation, Zurich had given him enough notice to vacate the property.
- The evidence Zurich had asked for to support Mr M's claim for out-of-pocket expenses weren't unusual or unreasonable. As he hadn't provided the information requested, Zurich hadn't acted unfairly in declining the claims.
- Zurich shouldn't need to cover Mr M's expenses as his property is habitable and he can return to it with his belongings.
- There was no evidence Zurich had caused damage to Mr M's property during their visit – and I wasn't given a reason why they would need to pull tiles or tanking off his walls.

- All the surveys and reports I'd been provided suggested the damage was more likely due to poor workmanship and not an escape of water. So the decision to only cover damage to the kitchen ceiling following the site visit in January 2023 was fair.
- Mr M hadn't sufficiently evidenced the damage he'd claimed for.
- Whilst water damage may have dried out by time the reports were put together in 2023, I would've expected to see some evidence of it – such as staining – if the leaks caused the extent of damage Mr M described.
- Reports from earlier – December 2021 – also said the moisture readings weren't high; there was little evidence of cracking and movement to tiles; and the damage to the bathroom and hallway were caused by those areas not being properly sealed.
- From the photos, there were no units blocking access to the area of the kitchen ceiling to be repaired. So I didn't think Mr M's kitchen needed removing and replacing.

I asked both parties for their comments on my provisional decision by the deadline set. Zurich confirmed it had received my provisional decision but didn't make any further comments. Mr M sent several detailed replies. He asked for a copy of our full file to make sure I had all of the relevant information from him and Zurich. And he asked our service to tell Zurich to return his belongings and cover his outstanding rent. He provided photos and information he'd given us before. I've summarised the parts of his replies which relate to the outcome of the complaint that I can look at below:

- Mr M wouldn't have let Zurich move his belongings into storage if he'd known it wouldn't arrange the repairs and he'd have to cover the cost of them being returned.
- Zurich had confirmed by email it would arrange for Mr M's items to be returned at its own expense. So he believes it should do what it said it would.
- Zurich had created the arrears on Mr M's alternative accommodation because it hadn't returned his belongings to his property (some of which are at the alternative accommodation).
- Mr M's landlord will be out of pocket if Zurich doesn't now cover the cost of his alternative arrangement.
- Mr M felt the RICS survey was incomplete. Instead he thought our service could arrange a site visit to his property to see the damage and in particular, to confirm his kitchen needed to be removed to repair the ceiling.
- The council visited Mr M's property and confirmed the RICS survey missed important information and the kitchen would need to be removed to repair the ceiling. They also said we should award around £30,000 for his expenses and accommodation.
- If the RICS surveyor had been instructed earlier – when the leak was happening, they would've been able to see the true extent of the damage.
- The RICS surveyor didn't remove Mr M's flooring or kitchen units so couldn't see the full extent of the damage.
- During the visit in January 2023, Zurich caused damage and took advantage of Mr M.

- The electrical inspection was cancelled because one of the major loss technicians refused to visit the property. Mr M thinks they're the person who damaged his property.
- Mr M hadn't agreed to the costings provided by Zurich because he didn't think it was enough to fully repair the damage. He calculated it would cost over £110,000 to repair.
- The kitchen ceiling has a metal frame around it and a spine running across the middle which the plasterboard joins to. There is also a sub ceiling with asbestos. So Mr M thinks the ceiling can't be repaired without special equipment and replacing the kitchen.
- Mr M doesn't accept his property is habitable with no internal doors as he'll have to heat the whole property in order to heat one room.
- The kitchen and fitted wardrobes were meant to be put into storage. Had that happened, the RICS surveyor would've been able to see the water damage behind it.
- The damage to the bathroom was not caused by Mr M using it as he was already staying at a hotel when the inspection happened.

Mr M also sent us details and photos of damage caused by previous escapes of water in his property. He says these were caused by the property above and a leak behind his shower. This includes the leak from September 2019. He explained what happened when he brought those complaints to our service. And he's sent us an email from his landlord of his alternative accommodation about his outstanding rent arrears.

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 won't comment on every point Mr M's raised but I've thought very carefully about everything he's said. I thank him for taking the time to gather the information he has. I know this complaint is very important to him so he'll be disappointed with my outcome. But having reconsidered all of the evidence again, I don't uphold the complaint. I'll explain why.

Mr M's given me a detailed run down of the previous escapes of water he's experienced in his property. He's also told me what happened when he complained about those incidents. But that's not relevant here as I'm looking at the events that happened during a specific timeframe only.

Mr M's sent us an email from March 2023 in which Zurich acknowledged his complaint and said it would arrange for someone to contact him about returning his contents. But that doesn't persuade me that Zurich should now cover Mr M's out-of-pocket expenses for storing or returning his items. From what I've seen, Zurich asked for evidence of Mr M's expenses on several occasions, including his storage costs. But I can't see he provided it at any point. I don't think the request was unreasonable and without it, I don't accept Zurich needs to cover the cost of Mr M's expenses – including returning his items.

I appreciate Mr M thinks if Zurich had returned his items to his property, it would mean his rent arrears on his alternative accommodation wouldn't have built up. And I presume that's because he would no longer have needed to continue the tenancy agreement. But until now, Mr M's maintained he needed to remain at the alternative accommodation property himself as his property was uninhabitable. So I'm not persuaded if Zurich had agreed to cover the cost of returning his items from his rental accommodation to his home address, he would've agreed it and vacated the property. In any event in this case, I don't think Zurich has done anything wrong in declining to cover any further expenses.

Mr M says his landlord of the alternative accommodation will be out of pocket if Zurich doesn't continue to cover his rent. But that's a matter for Mr M and his landlord as the tenancy agreement is between them. Zurich gave notice to Mr M in March 2023 that he'd need to return to his property and it wouldn't continue to cover his rent. But Mr M chose to remain in the rental accommodation. As I'm not persuaded his property is uninhabitable or that he needed to stay in the alternative accommodation, I don't accept Zurich is responsible for covering the rent arrears which have built up since then.

I understand Mr M feels passionately that our service should arrange an inspection of his property as he thinks the surveys which have been completed weren't independent. But that isn't a service we offer. And even if it was, I don't think it's necessary here.

I've been given the reports commissioned by Zurich and the report by a RICS surveyor. Whilst Zurich organised the RICS surveyor, they were identified and picked by Mr M. So I'm satisfied he's been given the opportunity to request an independent surveyor. Both reports show very similar findings and I don't agree another report is likely to show anything different. I know Mr M's said the RICS surveyor didn't pull up his floor or take down his ceiling so couldn't fully inspect the damage. But having looked carefully at the report, I'm satisfied they didn't find traces of the damage I'd usually expect to see – for example, staining and higher moisture readings. So I don't think a more invasive inspection, which would've caused more damage to his property, was appropriate here.

Mr M says the Council has recently visited his property and made a number of comments on what the outcome of his complaint should be and that the RICS report was inaccurate. But it's for our service to decide the outcome of individual complaints we look into, based on the evidence we've received. Mr M's not given us any reports or communication from the Council to support what he's said about the survey. So I've relied on the evidence I have been given to reach a Final Decision on this case.

Mr M's provided further information to support his view that the kitchen needs to be removed for the ceiling to be repaired. In particular, he's said his sub-ceiling has a metal frame which the plasterboard attaches to and that would prevent a contractor from replacing a small part of the ceiling. But plasterboard is usually attached to a support in the ceiling – and I don't think that's any different here. Zurich's report suggests a small patch repair is needed to the ceiling, and even with the structure Mr M's described his kitchen ceiling has, I can't see why that can't be done here. Mr M's also said the ceiling contains asbestos and therefore requires special equipment. But he's not provided any evidence of this – and I note, none of the reports have confirmed it either. So this doesn't change my findings in this case.

I know Mr M doesn't think his property is habitable. But I don't agree as I haven't seen anything to suggest it's unsafe to live in or unsanitary. Mr M also says it will cost him much more than Zurich has previously offered to carry out an effective and lasting repair. But for the reasons I've given here and in my provisional decision, I'm satisfied he hasn't sufficiently evidenced the damage was more likely caused by an insured event. So I don't think Zurich needs to do anything more in this case.

My final decision

My Final Decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 1 November 2023.

Nadya Neve
Ombudsman