

The complaint

Mrs T complains that Zurich Insurance PLC treated her unfairly following a claim against her contents insurance policy.

Mrs T is being represented in this case. For ease of reading, I'll refer to both Mrs T and her representative as "Mrs T" throughout.

What happened

The details of this complaint are known to all parties, so I won't repeat them here. Instead, I'll focus on giving the reasons for my 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.

Many points have been raised by all parties in relation to this matter. I haven't addressed each point individually – rather, I've focused on what I consider to be the pertinent points. I don't mean any discourtesy by this; it simply reflects the informal nature of our Service. I assure all parties I've read and understood everything that's been provided.

Mrs T lived with her family in a rental property owned by the council. She had a contents insurance policy which was underwritten by Zurich.

The crux of her complaint is Zurich concluded a house fire on 10 May 2019, which destroyed her contents, was caused deliberately. Zurich therefore referred to a fraud condition in the policy, declined the claim, and voided the policy.

Zurich has said based on the balance of the evidence – such as witness statements, and a forensic report – it considers Mrs T had sufficient motive, and there is no evidence of any other likely cause of the fire, other than it being deliberate arson. And theories put forward by Mrs T on likely causes were either "*fanciful*" or "*implausible*".

Mrs T strongly disputed the fire was caused deliberately, explaining, broadly, that:

- Her family were due to move as part of a house swap to a larger property roughly 18 miles away. Therefore, they had no reason to deliberately start a fire in the house they were moving away from, destroy their contents, and be deemed homeless.
- There are several other plausible causes that could have started the fire Zurich has unfairly dismissed. And it has built information around the circumstances of what happened to suit its unreasonable position that she (or someone in her household) deliberately started the fire.
- While the likely origin of the fire could have been the cooker hob switch being "on", it's plausible her kitten caused this to happen (which she's evidenced by providing

online searches of similar incidents), or someone in the household accidentally knocked the hob switch causing it to turn on. And the cooker switch could be turned anti-clockwise from “off” to the highest heat setting.

- Her daughter was at home the morning of the fire. She was a minor at the time, had important exams that day so she was stressed and anxious, and she (her daughter) thought she had caused the fire initially having used hair straighteners that morning.
- Mrs T told Zurich initially neither her, nor her daughter, entered the kitchen on the morning of the fire. But she later amended her statement saying she couldn't eliminate the possibility they did enter the kitchen. And her daughter understands, now she is older, there are no consequences if she did enter the kitchen that day; and
- Zurich discarded crucial evidence such as the cooker which prevented Mrs T from gathering evidence to support her position.

Zurich has said, in brief, that based on witness statements and a forensic report, that the only plausible cause of the fire was a fraudulent fire, caused by human agency, as the evidence strongly suggests the hob switch was turned “on” by someone in Mrs T's household. It also said it considered Mrs T had motive, and her submissions have been either untruthful or missing key information.

I don't find Zurich's decision to decline the claim was a fair and reasonable one. Nor am I persuaded the evidence supports that Mrs T deliberately started a fire for her own benefit, or gain. I say this for the following key reasons, and I've used subheadings below for ease of reading.

The information provided by Mrs T

Zurich has said Mrs T initially told it neither her, nor her daughter, entered the kitchen on the morning of the fire. And it said this was inconsistent with the findings from the forensic expert. Mrs T later amended her statement to say, broadly, she couldn't eliminate the possibility that they could have gone in the kitchen that day.

I think it's important to acknowledge the fact Mrs T's daughter was a minor at the time of the fire, had important exams that day, and was in the midst of a house move. So, I think it's fair to say this would have been a very stressful and anxious time for her. She'd also considered herself to blame for the fire initially.

I also think it's important I recognise why this statement amendment gave Zurich some cause for concern – not only because of its significance, and its timing, but also because of its initial concerns that the circumstances Mrs T gave weren't consistent with the forensic expert's findings. But with that being said, it's my view – based on the very specific circumstances of this complaint – there are plausible reasons as to why the statement was amended by Mrs T, later.

I say this because the forensic expert concluded, broadly, that the fire likely originated from the cooker as the hob switch was “on” at the highest heat setting. And the only plausible cause for it being “on”, in their opinion, was if it was switched on by a member of Mrs T's household.

But returning to Mrs T's amended statement, and the circumstances surrounding her daughter at the time of the fire, I think there are other scenarios here that *could* have resulted in the fire occurring accidentally.

I've mentioned above the fact Mrs T's daughter was a minor at the time. She was interviewed roughly three years after the incident – Mrs T said her daughter was still finding matters difficult. During the interview, Mrs T's daughter referred to the day of the fire being “*one of the most anxious days*” of her life.

Crucially, at the time of the interview, Mrs T's daughter was an adult. When asked whether she was in the kitchen on the morning of the fire, she said, broadly, that saying no initially (when Mrs T asked her if she'd been in there) was always going to be her initial reaction. But looking back there was every possibility she could have gone into the kitchen, but she wasn't going to say she was for certain, because she couldn't say that for certain.

As mentioned, she was facing a stressful and anxious time. And as a minor at the time, I think it's plausible that when she was asked about the fire, her initial reaction (as she suggested during the interview) was to distance herself from the kitchen to avoid being blamed for what was a very unfortunate, significant, and devastating, incident.

To be clear, I'm not concluding that's what *definitely* happened here. Rather, Zurich has said there are no other plausible causes for the fire – other than deliberate arson. And I'm pointing out that it's also plausible – based on the information available – that the fire wasn't started *deliberately* by Mrs T, or someone in Mrs T's household.

And the amendment in Mrs T's statement – while I recognise the timing of this as highlighted by Zurich – could also reflect the time and reflection (and maturity) Mrs T's daughter has had knowing there are no consequences if she did enter the kitchen on the morning of the fire, before leaving with Mrs T to go to school for her exams.

Motive

For me to conclude Zurich's decision to say the fire was a deliberate arson (and therefore rely on the concealment of fraud policy condition) was a fair and reasonable one, it would need to demonstrate (with compelling evidence) that either Mrs T, or someone in her household, had motive to do something so drastic such as setting fire to their home deliberately.

Zurich has said Mrs T applied for a three-bedroom home through the council with preferred locations roughly a few miles away from the incident address. But they weren't afforded enough *points* to be considered a priority, and a move in the near future looked bleak.

So, Mrs T decided to register for a house swap voluntarily, and they were successful. Mrs T agreed a swap with someone to move to a larger property roughly 18 miles away.

Things were set in motion, and the swap was due to take place around 18 May 2019. Mrs T had arranged for contents to be boxed up, removal vans, and Mrs T said her household were looking forward to the move, and optimistic for the future. I don't find these actions support the narrative that this was someone having second thoughts about moving.

The new house was further away from Mrs T's daughter's school, friends, and family. Mrs T said this was a small price to pay for a bigger home near the coast. Her daughter said the house move didn't really impact her either way.

Zurich has said following the fire, Mrs T's household were deemed homeless, which put them at the top of the council's priority list to move. And later, they were provided with a house by the council in their preferred area – housing Zurich has said Mrs T wanted previously, but couldn't get, due to points.

Further, Zurich has said Mrs T told the council after the fire that she didn't want to return to the property once it was repaired, and she'd realised moving away from that area may have been a bad move, so they were looking to remain in that area. Zurich also said text messages between Mrs T and the other party involved in the house swap showed Mrs T as being neutral about the move, whereas the other party was clearly excited about it.

Electronic messages, however, can be subjective and open to interpretation, so although I've noted the content referenced by Zurich, I've placed less weight on Zurich's interpretation of how Mrs T was feeling (based on messages).

Mrs T said her family were waiting on a list with the council for a larger home, and that there was no requirement for her to register for a house swap (they weren't being forced to move). And after viewing the property 18 miles away, they decided that property was suitable. She said they decided not to return to the incident address after the fire to leave bad memories behind but wanted to stay in the area to be close to family, and also following the support, empathy, and sense of community from locals following the fire. I don't find this to be an unreasonable position to take.

Summary

I've thought carefully about whether I agree with Zurich's conclusions about how the fire likely started (and its reasons for declining the claim). And having done so, I find that Zurich has unfairly declined this claim. I say this for the following key reasons:

- Zurich has said it has shown there was an element of motive in existence for Mrs T to have caused the fire deliberately. For the reasons I've mentioned above, I'm not in agreement with this statement.
- Zurich has also said Mrs T's evidence has been shown to be untruthful, unreliable, or incomplete. But I also think it's plausible given her daughter was a minor at the time of the fire (going through stressful exams, amongst other things), that later on she's now become more understanding of what may have happened in the lead up to the fire.
- I also think Mrs T tried to make sense of what most likely happened on the day of the fire. And while I recognise the forensic expert discounted these theories she put forward; I don't find it follows that the only other plausible explanation for the cause of the fire is that Mrs T deliberately started it for her own gain, or benefit. I'm not satisfied – based on the specific circumstances of this complaint – that's a fair and reasonable conclusion to make here.
- I say this because I'm not satisfied Zurich has demonstrated there is compelling evidence showing Mrs T had motive for taking such drastic action to gain something that was more advantageous – and reasonably foreseeable (for example, setting fire to the property would result in her obtaining a larger house from the council in that area) – than the pending house swap.

So, because I don't find Zurich's decision to decline the claim was a fair and reasonable one, it follows, I'll be directing it to settle Mrs T's claim in line with the remaining policy terms. Further, because I don't find it reached a fair and reasonable outcome promptly (the claim remains outstanding to date following the 10 May 2019 incident), I'll also be directing it to

include interest on any claim settlement at 8% per year, from six months from the date the claim was raised, to the date of settlement.

I've also thought about the way things were handled overall, Zurich's claim decision, and the impact on Mrs T. In essence, Zurich concluded here that a fire that destroyed Mrs T's contents was caused deliberately by Mrs T (or someone within her household) – which I'm not satisfied was fair and reasonable.

And I've no doubt this had a substantial impact on Mrs T, causing much distress, inconvenience, upset, and embarrassment – over a prolonged period. Therefore, it follows, I'll also be directing Zurich to pay Mrs T £1,500 compensation to recognise this. It must also remove reference to any avoidance markers from external databases in order to put matters right.

Putting things right

For the reasons I've mentioned above, I now require Zurich Insurance PLC to put matters right for Mrs T by doing the following:

- Settle the claim in line with the remaining policy terms;
- Include interest* on any settlement amount for the claim at 8% per year, from six months from the date the claim was raised, to the date of settlement;
- Remove reference of any avoidance markers from any external databases; and
- Pay Mrs T £1,500 compensation to recognise the substantial distress and inconvenience caused.

My final decision

I've decided to uphold the complaint. Zurich Insurance PLC must now settle this complaint in line with my instructions above.

*If Zurich Insurance PLC considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mrs T how much it's taken off. It should also give Mrs T a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs T to accept or reject my decision before 26 July 2024.

Liam Hickey
Ombudsman