

The complaint

Mr S has complained about Fairmead Insurance Limited's handling of two separate claims he made for water damage to his rental property under a residential let policy.

In this decision references to Fairmead include the actions of its agents handling the claims.

What happened

I have previously issued a provisional decision regarding this complaint. The following represents excerpts from my provisional decision, outlining the background to this complaint and my provisional findings, and forms part of this final decision:

"In June 2021 a water leak at Mr S's rental property was notified to Fairmead. It had caused damage to the bathroom, an adjoining bedroom, and an integral garage below. At this time the house was tenanted.

In July 2021 a water damage specialist appointed by Fairmead stated that a contractor would need to arrange strip out works before it could start drying the property. Fairmead also appointed a loss adjuster. But several months later the repairs had not started, despite both Mr S and his tenant chasing for updates. In December 2021 the loss adjuster confirmed the scope of repairs to Mr S and stated a contractor would be in touch shortly to book these in. But by the end of December 2021 the works had still not started, and Mr S told the loss adjuster that the tenant was concerned some ceilings might fall in.

In March 2022 the contractor appointed to carry out repairs said it was waiting for drying to be completed first. But the water damage specialist confirmed it could not start drying until the strip out works had been done. Stripping out the damaged materials did not start until April 2022.

In June 2022 Mr S emailed the water damage specialist saying that the property had been sold subject to contract and that the tenant had moved out. The specialist asked if Mr S gave permission for it to return the tenant's possessions which had been placed in storage to his new address. Mr S responded said that this was a matter for it to agree with the tenant. The loss adjuster reported to Fairmead that Mr S had given limited information to it about the house sale due to data protection concerns. Based on its understanding that the house had been sold, the loss adjuster proposed the claim file should be closed.

In September 2022 Mr S contacted to say that there had been a further leak at the property, separate to the leak that resulted in the first claim. The second claim was the result of a leak below a shower tray in an ensuite bedroom. This had damaged flooring, walls, joists and the ceiling of the hallway below.

Based on the evidence provided, there does not seem to have been any discussion at this time, either between Fairmead and its agents or with Mr S, to clarify what had occurred with the house sale. Fairmead accepted that there were now two escape of water claims it needed to resolve.

The same repairing contractor visited the property in October 2022. It was agreed that drying in respect of the second claim was required, but by January 2023 this had not started. At this time Mr S confirmed to the loss adjuster that no repair work had been carried out as yet. He said that he could not rent out or sell the property in its damaged state, and he asked if he could receive a cash settlement. The loss adjuster responded that it had appointed a contractor to assess drying requirements.

In March 2023 Mr S complained to Fairmead about the length of time it had taken for the repairs to be completed. He said that he was having to draw on his pension in order to pay his mortgage for the property. Mr S reiterated that he was unable to either sell the property or rent it out in its damaged state.

In its June 2023 response, Fairmead accepted that the first claim had been delayed due to confusion between its agents around the strip out and drying works. It said the first claim had been closed on the basis that the property had been sold by Mr S and so it could not complete repairs. Fairmead stated the repairs in respect of the second claim had almost been completed. It agreed that it had taken too long to deal with both claims and it offered £1,000 compensation.

I understand that repairs for both claims were completed at the property in June 2023 after snagging issues were resolved.

Unhappy with Fairmead's response Mr S brought a complaint to this service. He stated that the delay repairing his property had caused him losses because he could not sell it or rent it out. He also said the delays had caused him distress.

Our investigator initially upheld this complaint. He stated that the policy included cover for loss of rent ('LOR') but Fairmead had not considered this under the claims. The investigator proposed that it consider its liability for LOR under the policy, and also pay Mr S a further £250 compensation to reflect its delay considering LOR.

Mr S disagreed with the investigator's findings. He stated that his policy does not have LOR cover. He also commented that total compensation of £1,250 did not adequately reflect claim delays that he said ran over two years. Mr S listed losses he said he'd sustained as a result of these delays. These included council tax, standing charges for utilities, and mortgage payments he'd incurred because he couldn't rent, sell or remortgage the property.

Mr S commented that the property was empty because of Fairmead's poor handling of the claim. He said his emails and phone calls that attempted to get the claim progressed were ignored, and Fairmead had made no effort to contact him. He also reiterated that he'd had to use his pension pot to cover expenses for the property.

In response the investigator told Mr S that having reread the policy documents, he agreed that LOR cover was not included. As a result he said that Fairmead would not be able to consider LOR under the claims. The investigator also said that with his change of understanding about LOR cover, he no longer thought Fairmead should pay a further £250 compensation for failing to consider LOR.

Mr S did not agree with the investigator's revised view, and he provided further details regarding his insurance claims. Mr S commented that after his tenant moved out in June 2022 the property was left uninhabitable. He said Fairmead's contractors had stripped out the bathroom and garage, and water was unusable because they'd left water pipes uncapped. Mr S stated that toilets could not be flushed. He repeated the costs he said he'd incurred whilst the home was untenanted, and said it was empty because of Fairmead's delays repairing it. Mr S forwarded examples of when he'd chased Fairmead to progress the

claims, and he said that he would have been able to rent the property again within a month of repairs being completed. He asked that his complaint be reviewed by an ombudsman.

Having been passed this case, I asked both parties for some clarification around the complaint circumstances. In terms of his plans to sell the property, Mr S said that he'd given the tenant one year's verbal notice about this before the first water leak claim was made to Fairmead. Due to restrictions relating to the Covid pandemic, Mr S said this notice was extended by six months. It was during that six months' extension that the tenant reported the first water leak to Mr S and he made his claim in June 2021.

Mr S said he'd attempted to sell in 2022 when the property was still water damaged because the estate agent stated it would be possible. However, despite reducing the price to reflect the water damage, Mr S rejected the offers he received because they were significantly lower than that reduced price.

I asked Mr S if he was aware the first claim had been closed around June 2022 and he said that he was not. After the 2022 sale fell through, and the tenant had moved out, Mr S explained that he couldn't offer the property for rent because of the water damage. He enquired with the local council to see if it could assist with renting through one of its social housing schemes but it said that it couldn't due to the extent of the water leak damage. Mr S has reported that the council told him to get the house repaired first and then contact it again. However Mr S said he'd not received a response from the council about arranging for the property to be rented out since its repair.

Mr S confirmed he'd always planned to sell the property to benefit relatives, and that it is still for sale. He explained that he'd experienced four failed purchases, caused by interest rate rises. Mr S said that he may still need to rent the property out.

Mr S confirmed that he'd not been able to obtain any council tax discount due to the property being unoccupied, and said that because it had been empty for over 18 months, he was now paying double the normal rate. He also confirmed that under the tenancy agreement he had in place, the tenant paid council tax and all utility bills.

Fairmead confirmed to me that Mr S did have LOR cover on his policy. It said that this applied where the property was uninhabitable, but that didn't apply in this case. Fairmead also stated that Mr S would not have been looking to rent out his property whilst it was up for sale. It said its view was that Mr S was not entitled to LOR. Fairmead also suggested it should be established whether Mr S still owned the property.

Fairmead commented that confusion had been caused because Mr S had told its claim agent that the property had been sold when it had not been. It accepted that it had made errors dealing with the claim. However it suggested that Mr S could be difficult to contact, and did not contact it for periods of months to let it know he had concerns about the claims not progressing.

What I've provisionally 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.

Fairmead accepts that it took too long to deal with Mr S's escape of water claims. It made a 'blanket offer' of £1,000 compensation to reflect its failings. I need to consider whether that fairly reflects any financial losses Mr S may have experienced as a result of Fairmead's errors, and also distress and inconvenience he may have suffered.

Initially I feel it would be helpful to address the issue of LOR cover. Mr S has disputed that his policy included this. I note his comments, but looking at the policy schedule, my view is that he does have LOR cover. Fairmead has also confirmed this. The policy provides cover for LOR resulting from insured damage to the building, if the home "is unfit to live in".

In response to Fairmead's question about the current ownership of the property, based on Mr S's recent testimony regarding his plans for the house, I have no reasons to doubt that he still owns it.

As Fairmead identified in its complaint response, the first claim raised in June 2021 was unnecessarily delayed because of confusion between its agents about the stripping out and drying of the damaged parts of the house. This meant that the strip out did not start until April 2022. In my view this was an unjustifiable and unreasonable delay.

Fairmead has suggested that Mr S did not contact it regarding the lack of progression of his claims. However, the file it submitted to this service shows that the water damage specialist and loss adjuster recorded Mr S and his tenant chasing progress on this claim in September 2021. In December 2021 Mr S asked the loss adjuster when repair work would begin because his tenant was concerned that a ceiling was about to fall. During his claims Mr S told Fairmead that he was trying to be patient, but it is clear he did contact regularly to find out what was happening regarding repairs. Further to this, regardless of how regularly Mr S chased progress, I consider Fairmead was obliged to ensure it was repairing the property in a reasonable time frame.

Taking into account the damage sustained in the first claim notified in June 2021, I consider on balance that an appropriate timescale for completing repairs for this claim was by around the end of September 2021. If this had happened, the house would have been repaired by the date the tenant moved out in June 2022. But instead, an untenanted property which was already water damaged then suffered a new and separate water leak, reported to Fairmead in September 2022.

I asked Mr S whether the tenant moved out because of the still unrepaired damage from the first water leak, or because he had plans to sell the property. Mr S confirmed that he'd given verbal notice to the tenant to leave before the first leak occurred because he wanted to sell the house. That being the case, it seems to me that even if Fairmead had completed repairs in a reasonable timescale for the first water leak, the tenant would still have moved out when he did.

As I understand it, Mr S was receiving rent from the tenant until June 2022 when he moved out. The tenant would also have been paying council tax and utility bills to this date, with Mr S paying the mortgage (presumably using the rental income). Taking this into account, my view is that up until June 2022, Mr S was not caused any financial loss because of Fairmead's delays repairing the property. But the property wasn't finally repaired until June 2023, and so I need to consider whether Fairmead's delays caused Mr S a financial loss during the period June 2022 to June 2023.

Mr S sent an email to the water damage specialist on 23 June 2022 stating: "Tenant has moved, house is SSTC." However this sale did not complete. My understanding is that by the time the second insurance claim was raised by Mr S in September 2022, the sale had fallen through. But it seems to me that because Mr S had described the property as being sold subject to contract, there was a realistic prospect that it was going to complete.

This being the case, on balance I do not consider Mr S was seeking to find a new tenant for his property in the period between the existing tenant moving out in June 2022 and the

second claim being made in September 2022. Consequently I do not consider that Fairmead was responsible for Mr S not receiving rental income during this period.

In terms of the policy criteria for LOR cover, Fairmead has suggested the property was not uninhabitable. However Mr S has reported that the bathroom was stripped out, water was unusable due to pipes being left uncapped, and he says toilets could not be flushed. On balance my view is that from the date of the second leak in September 2022 until when repairs were completed in June 2023, the property was unfit to live in. I have considered whether that means Fairmead should reasonably be required to compensate Mr S for delays progressing his claim during this period, whilst he was receiving no rental income but had costs such as mortgage and utility bill payments.

From September 2022, Mr S again chased Fairmead's agents for progress on the claims, and he explained the outstanding damage meant he could not rent or sell the property. Once more the delays seem to have resulted from confusion amongst the agents about which order the various parts of the repair should be carried out. From the start of the second claim notification, it took nine months to deal with the damage from both outstanding claims.

As I explained above, my view is that the first claim should have been resolved before the tenant moved out in June 2022. Had that been the case, the claim made in September 2022 would have been the sole focus of the repairers. In these circumstances, taking into account the reported damage caused by the second water leak, I consider a reasonable timescale for completing the repairs for the second claim would have been by the end of December 2022. Had Fairmead repaired the damage from both water leaks in reasonable timescales, in my view the property would have been repaired by the start of 2023.

I've therefore considered whether Fairmead caused Mr S financial loss for the period when the property remained water damaged from January to June 2023. In my view, a key consideration here is whether on balance Mr S would have attempted to find a new tenant for the property during this period if it had been repaired and habitable, in order to receive a rental income.

The property became unoccupied in June 2022 after Mr S had served notice on the tenant because he intended to sell. In order for me to require Fairmead to pay compensation equivalent to LOR from January to June 2023, I would need to conclude on balance that Mr S would have found a paying tenant for that period if the house had been repaired by then.

My view is that since Mr S had served notice on his existing tenant, his priority had been to sell the property. Therefore on balance I don't consider it likely that Mr S would have found a tenant for his property from January 2023 to June 2023 if it had been repaired and habitable. I'm mindful that getting a new tenant may have caused obstacles to selling. As a result, I do not consider it reasonable to require Fairmead to compensate Mr S in the form of LOR for this period.

Mr S has highlighted that he's had to continue to cover mortgage payments, council tax, utility bills and property insurance since the tenant left in 2022. But these expenses have continued because Mr S has been unable to sell the property, despite his efforts to do so. As he has explained, on four occasions a purchase has fallen through, and he says this has been the result of interest rate rises. But these difficulties cannot reasonably be linked to Fairmead's delays resolving his claims. Overall, I don't consider it's been demonstrated that Fairmead's poor handling of the two insurance claims has caused Mr S financial loss.

As the repairs were completed in June 2023, my view is that Fairmead are not responsible for events relating to the property since then. Mr S has raised his concerns about covering expenses for the property by using his pension pot. Although I acknowledge his comments,

as these expenses flow from his ownership of the property, my view is that Fairmead are not liable for any reduction in Mr S's pension fund that he has experienced.

I have also considered the difficulties that Mr S has been caused as a result of Fairmead delaying the repair of his property. As I have said, looking at the damage caused by each water leak, my view is that each claim should have taken around three months to resolve. In other words, both claims should have been resolved in about six months in total. In reality, after the first claim was notified to Fairmead in June 2021, it took two years until the repairs were completed in June 2023. I therefore consider that the repairs took around 18 months longer to complete than should have been the case.

In my view, Mr S was clearly caused significant distress as a result of this. Fairmead has already made a 'blanket offer' of compensation to Mr S of £1,000. Taking into account the 18 month delay in repairing the two instances of water damage, and awards made by this service on cases with similar circumstances, my current view is that total compensation of £1,500 is appropriate for the distress and inconvenience Fairmead's errors caused Mr S. This amount includes the £1,000 already offered by Fairmead."

Responses to my provisional decision

Fairmead confirmed that it accepted my provisional decision.

Mr S did not consider the compensation I proposed fairly reflects what happened to him in this case.

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 appreciate that Mr S is unhappy with the level of compensation I proposed in my provisional decision. However, my view remains that it fairly reflects the distress and inconvenience Fairmead's handling of his claim caused him. Taking into account the replies to my provisional decision, I do not consider that I have reason to alter the conclusions that I reached in that decision.

My final decision

My final decision is that I uphold this complaint in part. I require Fairmead Insurance Limited to pay Mr S total compensation of £1,500 (which includes the £1,000 sum already offered) in respect of distress and inconvenience caused to him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 24 October 2024.

John Swain
Ombudsman