

complaint

Mr C complains about Ageas Insurance Limited's offer to cash settle his home insurance claim for damage caused by an escape of water. Mr C's complaint is brought on his behalf by his son, Mr R.

background

In April 2018, Mr C made a claim to Ageas under his home insurance following an escape of water from a pipe located in his kitchen sink cupboard. The water had caused damage to two kitchen cabinet carcasses and three doors. Ageas asked Mr C to obtain some estimates to have them replaced.

Mr R duly obtained some estimates on Mr C's behalf and sent them to Ageas. They ranged between £4,000 to £5,000. Ageas thought the estimates were high so it decided to appoint its own contractors to inspect the damage and scope for the repairs.

The contractor offered Mr C a cash settlement of £1,375 (less the policy excess) based on its scoped costs. Mr R complained to Ageas that the amount offered was nowhere near what was needed to properly reinstate the kitchen. He told Ageas that his quotes were high because the kitchen units had been discontinued. He said that the doors were made of solid maple. As he couldn't obtain replacements from the original manufacturer he told Ageas he'd approached other kitchen suppliers about making bespoke replacement doors that would match the rest of the units in the kitchen. Mr R said Mr C was entitled to 'new for old' cover under his policy. He also said he'd be happy for Ageas's contractor to do the work. Mr R then complained again about the amount offered, the fact that he'd spent his own time obtaining quotes, that Ageas's contractor had missed one appointment and shown up early for another. Mr R said any contractor Ageas sent out needed to be qualified in woodwork, joinery and plumbing and if the work wasn't perfect he would refuse to accept it. Ageas told Mr R that it was entitled to settle the claim in the way it deemed most appropriate which, in this case, was by cash. Mr R asked Ageas to appoint a loss adjuster. Ageas said there was no benefit to doing so with his claim but it did agree to send its contractor out to look again at the damage.

Ageas's contractor carried out a second visit, as a result of which it declined to carry out the works but did increase the cash settlement offered to £1,947 (it is unclear whether this was net or gross of the excess). It said this was based on scoping the repairs on a like for like basis. Mr R said it wouldn't be possible to replace the units and doors on a like for like basis for the amount offered so he refused to accept it and complained to Ageas.

Ageas looked into Mr C's complaint but didn't think it'd done anything wrong. Unhappy with the outcome of Ageas' investigation, Mr C complained to this service. He said he was unhappy that he was being asked by Ageas to have replacement doors and units that didn't match the rest of the kitchen. He said that Ageas's final offer of £1,947 wasn't enough.

Our investigator looked into Mr C's complaint and recommended that it was upheld. He said that because Mr C had been unable to find a company to do the works for the amount Ageas had offered he didn't think Ageas had treated him fairly. He thought that Mr C may not be able to get the repairs completed on a like for like basis for the amount he'd been offered and he didn't think that was reasonable. So our investigator recommended Ageas arrange for another of its contractors to carry out repairs to Mr C's kitchen but, if that wasn't possible,

it should pay an amount to Mr C that was sufficient to enable him to arrange for the repairs to be completed on a like for like basis himself.

Mr C accepted our investigator's findings but Ageas didn't. It said its liability extended to a like for like replacement which is what the cash settlement figure was based on. It said its contractors were unwilling to undertake the repairs. And it said that, unfortunately, Mr C's policy didn't include 'matching sets' cover so its liability only extended to a like for like replacement.

The complaint was referred to me and I issued my provisional decision in April 2020. I made the following provisional findings and provisional award:

"my provisional findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

The dispute between Mr C and Ageas relates to the settlement of the claim. There's no dispute about the validity of the claim itself.

*How claims are to be settled is set out in the policy terms and conditions – this is the contract between Mr C and Ageas. Mr C's policy says: "We will settle your claim by either replacing, repairing or rebuilding items... or paying you their cash equivalent **based on what it would cost us to replace the item(s)**. We will decide which option is most appropriate." [my emphasis].*

So the contract between Mr C and Ageas gives it – not Mr C – the choice about how a claim will be settled. And, where Ageas chooses to settle a claim by paying cash, the contract says that settlement will be based on what it'd cost Ageas to replace the damaged items. Ageas says it would cost its suppliers/contractors £1,947 to replace the damaged kitchen units and doors so that is what it's based its cash settlement offer on.

But as Ageas is aware, buildings insurance policies are policies of indemnity. That means they aim to put the policyholder back in the position they were in just before the loss or damage happened. In Mr C's case that's with undamaged cabinet carcasses with solid maple doors that match the rest of the kitchen units. This service expects insurers to take into account the specific circumstances of a claim and bear in mind what's reasonable when choosing how to settle it.

This service has a long established approach in circumstances such as these where there's a dispute about a cash settlement offered by an insurer. That approach is that if the insurer only offers a cash settlement, the amount they offer should reflect the cost to the consumer of getting a repair done or replacing an item. If the offer reflects the cost to the insurer – and that's lower than the cost to the consumer – then that won't indemnify the consumer because the consumer won't be able to get the repairs done for the amount offered.

I appreciate that the policy terms allow Ageas to choose how to settle the claim, that one of those options is by paying cash and that they say Ageas can cash settle at its suppliers' own rates. But I don't think it's fair for Ageas to settle Mr C's claim in a way that won't indemnify him. As it's Ageas that's choosing to settle the claim by cash, then it is only fair to expect it to take into account what the reinstatement will cost Mr C. As Ageas isn't offering to carry out the repair the cost its own suppliers could do the work for is irrelevant.

Ageas has said its suppliers have declined to undertake the repairs because there's effectively been a breakdown in their relationship with Mr R (who is arranging and overseeing the claim for his father). I've read the case notes associated with this claim from which it's reasonable to conclude that Mr R's frustrations arise from being told his father isn't going to be fully indemnified for his loss. I can see that, on Ageas's instruction, he obtained numerous quotes covering both the supply of the replacement carcasses and doors along with the removal of the damaged ones and fitting of the new ones. I don't think it is unreasonable that Mr R became frustrated when Ageas declined to carry out the repair using its own contractors (despite Mr R expressing this as his preference) and chose to offer him a cash settlement amounting to a fraction of what was needed to reinstate the kitchen.

I've reviewed Mr C's quotes and I think they are reasonable. I don't think they include any un-necessary work. I know that our investigator recommended, in the first instance, that Ageas appoint different contractors to carry out the repairs. In response to our investigator's findings, Ageas said that wouldn't be possible. That being the case, and as it has chosen to settle the claim by cash, in order to indemnify Mr C it needs to provide a settlement based on the quotes provided by Mr C. I think it would be reasonable to say it should pay the lower quote provided for the supply of the carcasses and doors along with the lower of the quotes provided for the associated labour.

I can see that the quotes Mr C has submitted include VAT. Generally we think it's fair for the insurer not to include VAT in any initial cash settlement. That's because, where an insurer settles a claim by cash, it's up to the consumer what they do with that money. Sometimes consumers get the work done for a lower cost than the cash settlement figure. That's means the VAT amount – if their contractor is VAT registered – is less too. Often at the time the claim is being settled, it's not known what the consumer intends to do with the money – or how much VAT that might generate. But where a consumer is able to show they have paid VAT on any insured work, we expect the insurer to reimburse the consumer once they have proved VAT has been paid. So whilst I'm not requiring Ageas to include an allowance within the cash settlement for VAT when it pays my award, I would expect it to reimburse Mr C for any VAT he does end up paying on the insured works subject to the necessary proof being provided.

Finally, for the sake of completeness, Ageas mentioned in response to our investigator's findings that Mr C didn't have matching sets cover. I'm not sure of the relevance of him having it or not. As I understand it, Mr C isn't claiming for any undamaged units and doors to be replaced (such as could give rise to a dispute about what, if anything, Ageas should pay for them). His claim, and the quotes he's obtained to evidence it, is only for the units and doors actually damaged by the escape of water.

my provisional decision

My provisional decision is that I intend to uphold this complaint. I require Ageas Insurance Limited to cash settle Mr C's claim based on the quotes he obtained (and in line with my comments above) excluding any element for VAT. Subject to Mr C later proving that he paid VAT for the insured works, Ageas should reimburse him for it."

Mr C replied to my provisional decision to say he accepted it. He also said that the quotations he'd obtained were now two years old so he may need to get some new ones although he hoped the contractors would honour the originals. He said he was happy to send proof of any VAT paid to Ageas after the work had been carried out.

Ageas replied to say it was happy to accept my provisional findings based on settling Mr C's claim on the lowest of the quotes for the fitting and supply of the damaged units. It also said it would settle the VAT element upon receipt of the required invoices.

I asked our investigator to email Mr C to explain that I'd had a chance to consider the responses to my provisional decision and, having done so, I thought that settling the claim based on the lowest of the quotes for the fitting and supply of the replacement units was fair and reasonable in the circumstances. I also asked our investigator to let Mr C know that I'd noted Mr C's comments about the quotes he'd sent us now being two years old but thought that, in general, costs hadn't changed noticeably in recent times and, given the current circumstances, I didn't think it would be fair to delay the resolution of the complaint further in order for new quotes to be obtained that would be unlikely to have any material effect on the redress awarded.

Our investigator asked Mr C to make any comments he so wished within seven days and that, if he hadn't heard from him, explained I'd issue my final decision based on the redress set out in the email.

Mr C didn't reply. The complaint was returned to me for a final decision.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

As both parties have accepted my provisional decision, and as Mr C hasn't commented on the redress proposed by me in our investigator's recent email, my provisional findings, and those contained in the email, now form part of this my final decision. For the reasons set out above, I think a fair and reasonable resolution to this complaint is for Ageas to settle Mr C's claim based on the lowest of the quotes he's provided for the fitting and supply of the replacement units. Ageas should also settle any VAT element subject to Mr C providing it with proof he'd paid VAT for the insured works.

my final decision

My final decision is that I uphold this complaint. I require Ageas Insurance Limited to cash settle Mr C's claim based on the lower of the two quotes he obtained for the fitting and supply of the replacement units (and in line with the comments contained in my provisional decision) excluding any element for VAT. Subject to Mr C providing proof that he paid VAT for the insured works, Ageas Insurance Limited should reimburse him for it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 14 June 2020.

Claire Woollerson
ombudsman