

The complaint

Mr M complains that Aviva Insurance Limited failed to deal with a home emergency claim quickly enough to prevent further and unnecessary damage to his property.

What happened

The background to this complaint is well known to both parties, so I'll provide only a brief summary here.

Mr M has an insurance policy underwritten by Aviva which covers the water pipes and drains in a property he owns and lets out. The policy covers repairs to the pipes and drains. It doesn't cover any damage caused to the property by any escape of water from those pipes or drains.

On the evening of 25 July 2023, Mr M rang Aviva to report a water leak at the property. An engineer attended the next day and said the issue was due to the shower outlet. He said he'd fixed the issue and left.

When the leak continued, Mr M called Aviva again and another engineer attended. They said the problem was with the shower seals. They said they'd fixed it and left.

When the leak continued, Mr M called Aviva again. On 29 July, another visit was arranged. This time, the engineer identified a leak from a water pipe. He temporarily fixed the leak and came back two days later to carry out the full repair.

In carrying out the repairs, the engineer had to make a hole in the ceiling to access the leaking pipe.

Mr M complained to Aviva. He said the first two engineers had failed to diagnose the problem correctly. He said the whole ceiling now had to be replaced. And that was because the water damage was allowed to continue between 26 July, when Aviva's engineer first visited, and 29 July when the leak was stopped.

Aviva agreed with Mr M that the service provided had been poor. They said the misdiagnosis of the issue had caused inconvenience for Mr M. And they offered him £300 in compensation for his trouble and upset.

Mr M wasn't happy with this outcome and brought his complaint to us. He wants Aviva to pay him the £300 in compensation for his trouble and upset. But he also wants them to pay for the replacement of his ceiling, which cost £1,400 (the cheaper of two quotes he'd been given for the work).

Our investigator looked into it and thought Aviva's offer of £300 compensation was fair and reasonable.

He said Mr M's ceiling was already extensively damaged by the initial water leak, which was evidenced by a photograph taken by the first engineer when he visited the property on 26 July. And he said Mr M hadn't provided any compelling evidence that the delay in diagnosing

the problem caused the ceiling repairs to cost more than they otherwise would have.

Mr M didn't agree and asked for a final decision from an ombudsman.

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.

The policy terms aren't in dispute here. Everyone agrees that the policy covers repairs to water pipes and drains but doesn't cover damage to the property caused by any escapes of water from those pipes or drains.

Ordinarily then, if Aviva respond to a claim and fix the pipes or drains, the policyholder is responsible for the cost of repairs to any damage caused by the leak – whether they have other insurance cover for that damage is a matter for them.

However, Mr M is quite right to say that if Aviva failed to repair a leaking pipe or drain and so left water to escape and cause further – and unnecessary – damage, they might be expected in all fairness to pay for repairs to that damage. The damage would, in other words, be their fault – and they should repair it, irrespective of whether the policy would normally cover it.

The primary question for me in making this decision then, is whether Aviva's engineers' failure to diagnose and fix the leak at either of the first two visits caused further water damage to the property such that Mr M was left with a more extensive repair – and a heftier bill – after the leak was eventually fixed.

No-one disputes that in order to fix the leak, the engineer had to make a hole in the ceiling to gain access to the pipe. Mr M says that hole was relatively small and could have been fixed (filled and finished essentially) at a cost of around £200. And if the repair had been properly carried out on 26 July, there would have been no need at all to replace the whole ceiling.

I don't agree with Mr M and I'll explain why.

Aviva have provided a photograph of the ceiling taken by the first engineer to attend before he began work at the property. This shows an extensive water stain going across much of the ceiling.

I know Mr M doesn't believe that photograph was taken at that time. Indeed, he's suggested it's simply a copy of a photograph he himself took much later and provided to Aviva.

I'm satisfied it's more likely than not the photograph was taken at the time Aviva suggest. It isn't the same photograph Mr M took. It looks very similar, because it's of the same part of Mr M's property, from the same angle. But in Mr M's photograph the water stain has clearly spread slightly further in places compared to the engineer's photograph.

I should stress, the stain is slightly wider, but not by much – and certainly not as much as one would expect if the leak had been on-going for three days. It's what one would expect through capillary movement of the water through the plaster of the ceiling over a period of time from the same initial leak.

Furthermore, the engineer's photograph is lodged in Aviva's records exactly where one might expect to see it if it has been sent with the engineer's record of the work he carried out. I don't have any reason to suspect that someone – or indeed more than one person - at

Aviva has purposely doctored the record to give a misleading impression of the photograph's status or timing.

I'm also taking into account exactly what Mr M has told us about the events over the days between 26 and 29 July 2023. He tells us that within minutes of the first engineer leaving the property, it became apparent that the leak wasn't fixed and so he turned the water supply off.

He says the same about the second visit. And he says the water was off for most of the time before the third engineer attended. In Mr M's own words (in his complaint letter to Aviva), he turned the water on again, *"for short moments to collect water despite the water leaking started when it was turned on."*

So, according to Mr M's own account, the water was off for almost all of the period between the first engineer's visit (on 26 July) and the leak being fixed (on 29 July). And when it was turned on, that was his choice. And when he made that choice, he knew water was leaking out of the pipe for the short periods when he turned the water on.

I can understand that Mr M wanted to allow his tenants to have some water during the relevant period. However, if the further water which escaped - during that three-day period of delay in diagnosing the problem - did so because Mr M turned on the water supply knowing that there was a leak, then it would be difficult for me to conclude that Aviva's misdiagnoses were the primary cause of any further damage.

In summary, I'm satisfied it's more likely than not - given the photographic evidence - that Mr M's ceiling was damaged by the initial leak to the extent that it needed to be replaced. And even if that weren't true, I'm satisfied that any further leakage after the initial event reported on 26 July was caused by Mr M turning the water supply back on.

Putting things right

For the reasons I've set out above, I don't think Aviva should pay for the replacement of Mr M's ceiling. The ceiling wouldn't normally be covered under the policy terms. And I'm not persuaded that it was the delays in Aviva diagnosing the problem which led to the damage to the ceiling which meant it had to be replaced.

However, the service provided to Mr M on those first two visits was poor. There was a failure to diagnose the real problem which can't be justified given that the leak was detected reasonably straightforwardly at the third engineer's visit.

Those failure put Mr M in a very difficult position, with his tenants having no access to water for an unnecessarily prolonged period. That would have been stressful and frustrating for Mr M. As would having to call Aviva several times to get them to accept that there was still a problem which needed to be addressed under the terms of the policy.

Given that degree of distress and inconvenience, which Mr M experienced for a relatively short period of time, I'm satisfied that Aviva's offer to pay Mr M £300 in compensation was fair and reasonable.

Because Aviva hadn't paid that compensation to Mr M before our involvement in this case, I'm obliged to uphold Mr M's complaint. Otherwise, Aviva would be under no obligation at all to pay Mr M anything.

Aviva will be interested to note however, that we'll record and report this case as an uphold with no change in outcome, given that they'd already offered fair and reasonable compensation to Mr M in their final response to his complaint to them.

My final decision

For the reasons set out above, I uphold Mr M's complaint.

Aviva Insurance Limited must pay Mr M £300 in compensation for his trouble and upset.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 1 March 2024.

Neil Marshall
Ombudsman