

The complaint

Ms K complains about how Aviva Insurance Limited dealt with a claim she made under her home emergency insurance policy.

Aviva are the underwriters (insurers) of this policy. A large part of this complaint relates to the actions of agents appointed by Aviva when responding to the claim event. As Aviva have accepted responsibility for the actions of their agents, any reference to Aviva in my decision should be interpreted as also covering the actions of those agents.

What happened

The background to this complaint is well known to Ms K and Aviva and has occurred over a number of years, going back to 2020. In my decision, I'll focus mainly on giving the reasons for reaching the outcome that I have.

Ms K made a claim on her home emergency insurance policy following an escape of water. Aviva resolved the home emergency, after an initial delay. Ms K later raised a complaint. Aviva initially accepted they were responsible for the subsequent damage caused by their response to the emergency and they offered to survey the damage, but this didn't happen – as they were waiting for the go ahead from Ms K.

In August 2023, Ms K got back in touch with Aviva. This ultimately led to Aviva issuing a further final response letter on 11 December 2023 where they declined liability for the consequential loss Ms K says arose out of their initial response to the home emergency.

Ms K referred her complaint to our Service for an independent review. Our Investigator didn't recommend that the complaint be upheld and as Ms K didn't accept her findings, the complaint was referred to me for a decision. I recently sent both parties a copy of my provisional, intended findings. As the deadline for responses has now passed, I've now considered the complaint for a final 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.

Our Service is an alternative, informal dispute resolution service. Although I may not address every point raised as part of this complaint - I have considered them. This isn't intended as a discourtesy to either party – it simply reflects the informal nature of our Service.

The scope of my decision

Our Investigator has explained to Ms K that because she didn't refer her complaint addressed in the final response letter dated 14 July 2021, under the time limit rules that apply (and because no exceptional circumstances have been presented), our Service hasn't directly considered that complaint. However, Ms K had further complaints after this and had final response letters dated 15 September 2023 and 11 December 2023.

When reaching my decision, I've also carefully considered the chain of events, the subject matter of the final response letter referred for our consideration and also Aviva's comments to our Investigator. Therefore, in my decision I will keep in mind the overall link between events here - but my main consideration will be Aviva's most recent, updated position – not any earlier positions they chose to take.

It's also important to be clear that it's not the role of our Service to determine what has caused the damage that Ms K is claiming for, or if negligence has occurred. Instead, I will be considering the evidence to determine if, on balance, Aviva have treated Ms K fairly and reasonably overall.

Finally, this home emergency policy is not comparable to a buildings insurance policy. Home emergency policies are intended to respond to an immediate emergency to prevent further damage and, as our Investigator has pointed out, normally a buildings insurance policy would respond to any damage as a result of the emergency. I understand that Ms K may have tried to pursue that avenue, but was directed back to Aviva. I will only be considering Aviva's actions here when responding to the home emergency - not any buildings insurance/insurer claim response.

Both parties have now had an opportunity to respond to my provisional decision. Aviva acknowledged receipt of it and had nothing further to add. Ms K didn't provide any response. Therefore, as no new evidence or arguments have been presented, I find no fair or reasonable reason to deviate from my previously set out findings.

How have Aviva treated Ms K overall?

Aviva accepted this claim. Ms K argues that their response to the claim has caused her further loss and they changed their position on being liable for the damage. Whilst it will no doubt have been caused Ms K frustration and loss of expectation I find the position most recently taken by Aviva to be reasonable. I say this because:

Aviva did initially offer to consider the damage Ms K alleged they were responsible for:

*"I am aware there has been damage caused to your bathroom from the water leak however, **you didn't feel comfortable with us sending our surveyor to your property due to the current pandemic. When this is convenient for you and you are happy for us to attend, please contact me and I will arrange for our surveyor to attend to assess the damage** [bold added for emphasis by Ombudsman] and we can then advise you of the next steps."*

This was fair and reasonable.

Over two years passed before Ms K did make contact with Aviva specifically in relation to the damage she held them responsible for. Having considered Ms K's explanation for the delay, I still find that an unreasonable amount of time had passed before she raised the issue again with Aviva.

I acknowledge both reports provided (by Ms K and Aviva). Ms K has gone into detail on what constitutes expert evidence. With all due respect - as the deciding Ombudsman, I have considered all evidence presented before deciding what I'm more persuaded by. In any case, both surveys/reports took place a long time after the initial escape of water. What neither report does is attribute what damage was caused by 1- the loss event initially, 2- the delay in the emergency being resolved and 3- subsequent damage that has occurred since.

For Ms K's complaint to succeed, I'd have to be persuaded - on balance, that Aviva's delay

initially when responding to the claim meant they are responsible for the loss she is now claiming for. But given the passage of time, I find Aviva's position - that it's simply too far removed from the initial event to attribute what damage may have been caused by their delay in stopping the home emergency (escape of water), what damage was caused by the escape of water prior to their involvement and what damage has occurred since, to be fair.

It's clear that the service provided by Aviva hasn't met Ms K's expectations. Aviva have accepted as such when making various offers of compensation to Ms K. Whilst I'm not directly considering these offers (as they pre-date the final response letter dated 11 December 2023) I've had to keep them in mind when considering if Aviva treated Ms K fairly overall.

I've find that Aviva haven't done enough to recognise the impact of their actions on Ms K. Specifically, the avoidable loss of expectation and frustration caused to Ms K. When considering their latest position in the latest final response letter (December 2023) I've kept in mind that Aviva have dramatically veered from: accepting liability, to offering to cover the repairs, to offering to cash settle, to fully rejecting Ms K's claim for further damage. I've to balance this up against the decision by Ms K to effectively maintain radio silence on the issue for a long period of time until 2023.

On balance, I find that Aviva haven't done enough to recognise the impact of their actions. It's not my role to critique any businesses' claims handling process, but in this case it stands out to me that Aviva accepted liability and led Ms K down that path before reconsidering their position – which they were entitled to do, without initially fully considering what it was they were accepting liability for. In my opinion, Aviva compounded the avoidable impact on Ms K.

Putting things right

Aviva Insurance Limited need to pay Ms K a total of £600 compensation. They can deduct from this their previous offers of £300 - if they've already paid them.

My final decision

My final decision is that I partially uphold this complaint. Aviva Insurance Limited now need to follow my direction, as set out under the heading 'Putting things right'.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms K to accept or reject my decision before 20 December 2024.

Daniel O'Shea
Ombudsman