

## **The complaint**

Mrs C, Mr K and Mr K complain about repairs carried out under a home emergency insurance policy by Aviva Insurance Limited.

## **What happened**

Mrs C, Mr K and Mr K are the executors of the estate of the sadly deceased Mrs J. They've been represented at times in this complaint by a third party (a relative of Mrs J). For ease of reference in this decision I'll refer to all those involved as "the estate".

Mrs J had a HomeServe emergency homecare policy underwritten by Aviva. The estate has brought three complaints to our service about claims made under that policy.

The other complaints related to: (a) Aviva's handling of a claim for repairs to the electrics at Mrs J's property, a blocked drain and pest control; and (b) a leak at the property. Both have already been concluded with an ombudsman's final decision. I'm not going to go into those complaints again here.

This decision is solely about the estate's complaint about the replacement of a boiler at the property and the repairs associated with it.

In January 2019, in response to a claim, Aviva determined that the boiler was beyond economic repair. In line with the policy terms, it was agreed the boiler would be replaced for a fee of £750.

The work took longer than expected and there were issues with Aviva contacting the policyholder (now deceased) to arrange repairs whilst she was critically ill in hospital. Those issues have been considered as part of the previous complaints made by the estate.

However, there were a number of issues post-installation. The estate arranged for an inspection by a third party – at a cost of £150. The report said the boiler was in working order, but the tank had been installed incorrectly. In effect it wasn't correctly positioned and its weight was going straight through the ceiling of the room beneath. This had also – unsurprisingly - caused damage to the ceiling.

Aviva carried out their own inspection and agreed with the third party's findings. They arranged the necessary remedial repairs. However, the estate weren't happy with the work done to repair the ceiling, which appeared to be poorly carried out. The contractor also refused to re-paint the room's walls and would only paint the ceiling itself.

The estate made a complaint to Aviva and then brought this to us when they weren't satisfied with the response.

Without going unnecessarily into the detail – of which both parties are aware - Aviva have in effect now offered to pay the estate £1,247.52. This comprises: £347.52 for labour and materials costs to the estate when they re-painted the walls; £150 for the third party

inspection which identified the issues with the installation; and £750 for inconvenience to the estate caused by the poor repairs.

Having looked into the complaint, our investigator thought Aviva had done something wrong, but he also thought the amount they now said they were willing to pay the estate was fair and reasonable.

The estate don't believe this is enough to compensate them. For example, they say a family member had to be at the property for 12 days to allow the work to be carried out – and they say he would have earned at least £200 for each of those days had he been free to work. And so, they 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.

I should explain first of all that there have been further developments since our investigator offered his view on this complaint.

The estate were aware from the outset that the repairs to the ceiling hadn't been carried out as agreed. Instead of taking down and replacing the ceiling altogether, the contractor had in effect boarded over the existing (damaged) ceiling.

The estate didn't raise this at the time because the sale of the property had been arranged and the buyer had no issue with the state of the ceiling and hadn't asked for a reduction in price because of it.

However, that sale fell through for unconnected reasons. After the estate contacted them, Aviva agreed the work hadn't been carried out as specified. And they agreed to pay for the estate £870 so they could carry out the further remedial work themselves.

I don't need to comment on that particular agreement between the estate and Aviva – both parties are satisfied with the outcome and no complaint has been made about it.

However, I should be clear that it is entirely separate to the question of whether Aviva's offer of £1,247.52 is fair and reasonable redress to the estate for the issues raised in this complaint.

The £870 Aviva have already paid the estate pays for the latest repairs to the ceiling. It doesn't compensate the estate for the cost of the third party inspection, the costs of re-painting the walls previously or the inconvenience caused by the poor installation of the boiler and the frankly odd attempt to repair the ceiling carried out by Aviva's contractor.

I have a great deal of sympathy with the estate about this whole affair. The original installation of the boiler tank was – all agree – completely sub-standard. The subsequent ceiling repairs were carried out by Aviva's contractor in a way completely at odds with the agreed scope of work. And as a result, something which should have been sorted out long ago has dragged on for a substantial amount of time and caused a great degree of inconvenience.

I think it's uncontroversial that Aviva should pay the £150 cost of the third party inspection which uncovered the defective installation of the boiler tank. I also think all would agree it's fair and reasonable for Aviva to pay for the costs associated with re-painting the walls (£347.52).

This leaves the question as to whether £750 is sufficient compensation to the estate for the inconvenience caused by Aviva's failings.

As the estate are aware from what we've said in relation to the previous complaints, we can't compensate an estate (which is not a natural person) for stress, anxiety or upset. I have no doubt the individual executors and other family members have been stressed and upset as a result of these events, but we can't compensate them personally for that. The estate – our complainant in this case – isn't a person and so can't feel stress or upset.

So, any award can only be for actual inconvenience caused to the estate. In that context, I'm satisfied that £750 – as suggested by our investigator and as agreed by Aviva – is a fair and reasonable payment.

I should say, I don't accept that the family member who was at the property during the boiler installation and further repairs had to be there for the whole time. There's usually no issue with this kind of work being carried out at a vacant property as long as suitable arrangements can be made.

I also have to take into account that this is a home emergency policy, which by its very nature is designed to cover a property which is occupied. I can't hold Aviva responsible for the very unfortunate events which meant that wasn't the case here.

### **Putting things right**

In summary, I believe it would be fair and reasonable in this case for Aviva to pay the estate the £1,247.52 recommended by our investigator. To confirm, this comprises: £150 for the cost of the third party report; £347.52 for the cost of re-painting the walls in the room beneath the boiler; and £750 to reflect the inconvenience to the estate caused by Aviva's failure to deal with the claim appropriately and in a timely fashion.

For the sake of absolute clarity, this is in addition to the £870 already paid by Aviva to cover the latest repairs carried out on the ceiling.

### **My final decision**

For the reasons set out above, I uphold Mrs C, Mr K and Mr K's complaint.

Aviva Insurance Limited must pay the estate of Mrs J £1,247.52.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C, Mr K and Mr K to accept or reject my decision before 2 September 2020.

Neil Marshall  
**Ombudsman**