

## The complaint

Mr P, represented by Mr C, complains that Aviva Insurance Limited (Aviva) haven't fairly settled a claim for damage following a water leak in his home under his buildings and contents policy. He wants the claim settled.

## What happened

Mr P was concerned about a problem with damp in his home. He contacted Mr C, a specialist timber and damp contractor. Mr C attended on 2 June 2020 and located a leaking pipe in the subfloor. He said there was water damage and evidence of dry rot to several rooms in the property, with the rot caused by the excess moisture from the leaking pipe, which he estimated may have been present for around 2 months. He said further investigation was likely to reveal more damage.

Mr C said it was difficult to access areas of the kitchen which had newly fitted units. He said flooring, damaged timber, and plaster needed to be removed and chemical treatment applied before making good. Mr C said work should be undertaken urgently to prevent dry rot spreading further and his estimate was £4,350 for the repairs identified at that point.

Mr P and Mr C called Aviva on 19 June 2020 to see if the work could be claimed for under the policy. They say Aviva said due to the impact of Covid it wouldn't be able to send a surveyor to assess the damage for six weeks. Mr C said the work needed to be carried out urgently. Aviva agreed that the work should be undertaken and said to take photographs as evidence as work progressed. Aviva's surveyor (who I'll call S) attended on 20 July 2020 whilst work was ongoing. S said not everything was covered by the policy as it excluded damage caused by dry rot. It said it valued the claim at £2,117.52 after deducting the excess of £350 and Aviva sent a cheque for this amount a few days later.

Mr C says S agreed that further investigations were required in the kitchen. Once a unit a section of flooring was removed, standing water was discovered which had seriously damaged the wooden flooring and battening supporting it. He says the kitchen needed to be fully removed, the damaged flooring stripped out and the sub-base dried before rebuilding the floor and refitting the kitchen.

Mr C prepared a further report, with photographs and sent this to Aviva, but says this wasn't acknowledged. S attended again in September 2020. It said the work had mainly been completed and there was nothing to see. But it said that the reports from Mr C confirmed rot was the cause of the problem which wasn't covered by the policy. It said the claim had already been settled fairly. S said it was discussed at the site meeting that "*all additional damage was due to the rot*". It asked that Mr C send an updated estimate of what he felt was damaged directly as a result of the escape of water.

Mr C prepared a further report with diagrams detailing standing water in the sub floor. He said 90% of the area showed wet rot and 10% dry rot. Another report was prepared by Mr C on 15 November 2020. He said it had initially been assumed that dry rot had affected the kitchen floor and that a small area of this was observed by S when it first attended. But on

full exposure of the area wet rot was identified, caused by the leak from the pipe. S said rot wasn't covered by the policy and nothing further would be paid.

Mr P complained to Aviva and Mr C provided further reports. Aviva rejected the complaint saying it had settled the claim fairly as dry rot was not covered by the policy. Mr P referred his complaint to our service.

Our investigator looked into and decided to uphold the complaint.

Our investigator said whilst Mr C's reports referred to wet and dry rot, much of the damage appeared to be caused by the escape of water that the policy did cover. He said as Aviva had accepted and paid the claim for the leaking pipe and water damage caused by it. So, it should also cover the costs of repairing the further water and wet rot damage arising from it which had subsequently been discovered. He said as the policy didn't cover dry rot these costs could be declined by Aviva. He said Mr P had been caused trouble and upset by having his claim unfairly declined and Aviva should pay £200 in compensation for this.

Aviva said Mr C had only changed his reports about the cause of the damage being due to water rather than rot, after it had declined the additional claim following S attending in September 2020.

As Aviva doesn't agree it has come to me to decide.

### **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.

Having done so I've decided to uphold this complaint. I've considered the reports prepared by both S and Mr C and their comments carefully in coming to this conclusion.

The reports all agree that there was water damage. Mr C's first report, prepared before Aviva's involvement, refers to water damage, dry rot, and the requirement for further investigation. It says the dry rot has been caused by the escape of water. S's report refers to the work in progress and identifies that some of the work in respect of the dry rot isn't covered, but that works caused by the water damage are. It says:

*"It is my considered opinion that this damage has occurred due to an escape of water from the mains feed into the property"*

Mr C's second report dated 30 July 2020 contains a schedule of recommended works to the kitchen and front room which total £8,002. This does refer to dry rot but in Mr C's covering email in sending his report to Mr P he says:

*"Please find enclosed in attachments the report and full costs for water damage, etc, full repair costs to send to your insurance"*

Mr C's third report of 12 August 2020 says:

*"It was discovered that the outbreak of water damage emanating into True Dry Rot ... has spread to the kitchen and ... Lounge".*

His fourth report details the standing water on the subfloor supported by diagrams and photographs were sent to S showing this. After S visited in September 2020 it said that Mr C's supplementary estimate and photos appear to be works required as a result of dry rot and that Mr C only changed his subsequent reports after it declined the further claim.

Mr C does appear to have amended his final reports. But I think he was merely seeking to clarify that water was the cause of most of the damage as the claim had become bogged down in arguments about the different types of rot and whether these were covered by the policy or not.

Mr C is a damp and rot expert and I think his reports naturally reflect this aspect of his work. In his opinion there was damage, primarily caused by the leak of water, some wet rot, and a lesser amount of dry rot, which required additional treatments to deal with after stripping out.

The photographs showing a damp sub floor and rotten timber battens also show new looking insulation boards in the same area. I think it's unlikely that Mr P would have laid new floor installation, chipboard flooring and then laminate before installing a new kitchen if there had been an existing problem with rot in the area without dealing with it first.

Mr C has said that rot can develop quickly in the right conditions. It isn't disputed that there was a pipe leaking for some time in the subfloor area. Mr C estimated the leak may have begun in April 2020 and there was still standing water in July 2020.

Aviva says it couldn't fully assess the claim at outset because of the impact of Covid restrictions. The policy terms and conditions exclude cover for:

*"Damage by wet or dry rot arising from any cause, except as a direct result of a claim we have already paid, and where repair or preventative action was carried out by a tradesman we have approved"*

Aviva had authorised the work to be undertaken in June 2020 and Mr C is an experienced and qualified contractor. It's possible that some rot developed after the work was authorised by Aviva and if so, dealing with this is work that would be covered by the policy. In any case Mr C reported that the timber battens beneath the kitchen and front room floor were at *"100% saturation, with visible water on top of the membrane"* with floorboards, laminate, skirting, and plaster damaged as a consequence.

Aviva had been advised that further investigation was needed and that more damage was to be expected. I think it was kept informed about this as the work progressed. If it wasn't happy for the work to continue, I think it should have told Mr P this and arranged for S to re-inspect the property sooner than it did. It didn't do so, and I don't think it can reasonably dispute the expert evidence after the event.

Taking everything together I think it is more likely than not that the further damage arose as a direct result of the leak from the pipe rather than being some longer term, gradually occurring problem normally associated with rot. And Aviva, had authorised repairs to be made. So, I think most of the damage is covered by the policy.

### **Putting things right**

I think it's fair that Aviva reassess the claim based on Mr C's estimates for the repairs excluding the specifically identified area relating to dry rot. However, Mr C says there was some localised dry rot, being around 10% of the area. This is specifically not covered by the policy, so, it isn't unreasonable for Aviva to exclude the costs relating to this from the claim.

I also think Mr P and his family has suffered trouble and upset through Aviva unfairly declining part of his claim. To put this right, I think Aviva should pay Mr P £200 compensation for this.

### **My final decision**

My final decision is that I uphold this complaint against Aviva Insurance Limited.

I direct Aviva Insurance Limited to reassess the claim based on Mr C's estimates of the repair costs excluding the work specifically relating to dry rot. Aviva Insurance Limited should also pay Mr P £200 compensation for the trouble and upset caused by unfairly declining part

of his claim.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 15 May 2022.

Nigel Bracken  
**Ombudsman**