

The complaint

Mr B complains about the way Aviva Insurance Limited has handled a claim he's made for subsidence under his buildings insurance policy.

What happened

References I make to Mr B and Aviva include respective representatives and agents.

The background to this complaint is well known to the parties so I've provided a summary here.

- Mr B has a buildings insurance policy underwritten by Aviva. There were a number of previous claims on the policy when the property experienced subsidence in 1998 and 2003. Aviva undertook strengthening work to address the issues.
- In 2015, his property experienced subsidence again and Mr B reported this to Aviva. It proposed to address the subsidence by undertaking further strengthening works but Mr B was unhappy with this.
- He says underpinning the property was discussed following the 2015 claim but was considered unnecessary and a potential risk by Aviva. Significant periods of monitoring followed and eventually drain repairs were undertaken in 2017 to address the subsidence.
- In 2018, cracking reappeared before the work was signed off and so another period of monitoring was required which highlighted further movement. More drain repairs were required but Mr B was unhappy with this and said more extensive investigations should be undertaken.
- Eventually, in 2020, Aviva's expert said underpinning was required to address the subsidence. This was completed in May 2021.
- Mr B complained to Aviva, highlighting the impact its poor handling had on him and his family and the potential impact on the value of the property. Aviva apologised and awarded £1,000 compensation for the delays in finding an appropriate solution for the subsidence. It also said it would give a Certificate of Structural Adequacy (CSA) and this should address any potential purchaser's concerns.
- Our Investigator considered the evidence and upheld the complaint saying Aviva should have considered underpinning earlier. She didn't think Aviva needed to do anything to address Mr B's view on the potential decrease in value of his property but awarded an additional £1,000 on top of the amount already offered by Aviva for the delays and poor service. She thought Aviva's position on the CSA was reasonable.
- Aviva accepted this but Mr B didn't and asked an Ombudsman to make a 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.

Mr B raised concerns about Aviva's actions through the entire life of the claims from 1998 to the present day. I explained in a recent decision I can only consider Aviva's actions and its approach on the 2015 claim and what it did after this. I therefore won't be commenting on what happened before this on the previous claims.

I know Mr B has found the various incidences of subsidence and the related claims to be very distressful. My role requires me to undertake an impartial and dispassionate review of the evidence and that means my decision may sound rather matter of fact at times. I mean no disrespect by this, it's merely the nature of my role.

Aviva's approach to the repairs

Industry rules require Aviva to handle claims promptly and fairly. And where repairs take place we'd expect those to be lasting and effective. That doesn't always mean corrective repairs will work first time round and forever. Aviva should bear this in mind when considering the nature of repairs given previous attempts at remediating the subsidence had neither been lasting or effective.

Mr B's key argument is that underpinning should have been employed much sooner than it was. It's clear from the evidence early in the 2015 claim, Mr B believed underpinning was the correct solution to address the damage because of the past history of subsidence. I accept that, ultimately in 2021, underpinning was employed to address the damage but it doesn't automatically follow that it would have been the only appropriate solution in 2015.

In deciding the appropriate approach, Aviva relied on the professional opinion of its experts which said underpinning wasn't necessary to address the damage at that time. I haven't seen any opposing professional opinion that shows underpinning should have been employed then.

It wasn't until 2020 that Aviva's expert decided underpinning was now the appropriate solution. He commented that *"...The ground is very poor and now has long term reduction in load bearing capacity so the foundation stabilisation is the only measure to deal with this..."* and diagnosed the cause of this being due to *"...elongated exposure of the subsoil to the escaping water"*.

From this, I conclude the position had deteriorated over time and while underpinning may have been appropriate in 2021, the evidence doesn't persuade me conclusively that it would have been the only successful solution before this.

I've then gone on to think about whether Aviva should reasonably have thought about alternative solutions even in the absence of conclusive evidence. Aviva has acknowledged it should have considered underpinning sooner than it did and I agree. In my view, when it became clear the attempted repairs had failed when the damage reoccurred in 2018 - even before the repair work was signed off - I think Aviva should have realised its approach up to that point was simply insufficient to address the issue.

If it had adopted the underpinning at this stage it would have saved Mr B being put through at least two years of unnecessary distress and inconvenience. And I don't think Aviva has done enough to compensate Mr B for the impact this caused. I'll be keeping this in mind when considering the award I make.

The time taken

Our Investigator provided a timeline for the claim and I don't propose to repeat that here. I've looked at Aviva's actions over the period under review and very carefully read through all the claim notes. I acknowledge subsidence claims will always take time and in this case that's not been helped by long periods of monitoring and the impact of the Covid pandemic.

But it seems to me, Aviva has taken much longer than was necessary to move the claim forward. The claim notes show, for example, Mr B's representative had to regularly chase Aviva for updates, details of monitoring results and complained of frequent unreturned phone calls from its agents and contractors. The representative also highlighted the distress Mr B was experiencing as a direct result of the claim being so drawn out.

The potential impact on the property value

Mr B says the ongoing subsidence issues and the delays in Aviva addressing them will have affected the value and saleability of his house. I acknowledge what Mr B says here but I've not seen any evidence which shows there actually *has* been a decrease in the value of the property because of anything Aviva did so this remains a potential theoretical loss. So I wouldn't make an award on the basis of a theoretical loss of value.

Aviva confirmed it would provide Mr B with a CSA once the work was completed. The provision of a CSA often assists with obtaining future insurance or for providing reassurance for potential purchasers that previous problems have been resolved successfully. The provision of a CSA to Mr B is in line with what I'd expect of Aviva in these circumstances. And I won't be asking Aviva to do anymore on this aspect of the complaint.

Putting things right

As I explained above, I can only consider the impact of Aviva's actions from the 2015 claim onwards, not what it did – or didn't do – on previous claims. It follows that any award I make will only reflect the impact on Mr B from 2015.

I think Aviva should have agreed to the underpinning solution much sooner than it did and handled the claim much quicker. It's clear Mr B found the subsidence and Aviva's handling of the claim very distressing and the delays it caused made this much worse. They also resulted in it partly coinciding with the global Covid pandemic and that meant additional delays and Mr B having to have contractors in attendance at a time when vulnerable people like himself were keen to avoid contact with others as much as possible.

Having taken everything into account, and for the reasons I've explained above, I don't think Aviva has done enough to recognise the impact of its actions on Mr B. I've thought about this very carefully and concluded that Aviva should pay Mr B a total of £2,000, deducting from this figure anything it's already paid him.

My final decision

My final decision is that I uphold this complaint and direct Aviva Insurance Limited to pay Mr B a total of £2,000 - less any sum it's paid already - for the distress and inconvenience it caused him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 8 July 2022.

Paul Phillips
Ombudsman