

## **The complaint**

Mr I has complained about the way a claim for fire damage has been handled by the insurer Aviva Insurance Limited. Mr I held his contents insurance policy with Aviva.

All reference to the insurer Aviva in my decision includes its agents.

## **What happened**

In 2017 Mr I's home was damaged by fire and he made a claim for the contents to his insurer, Aviva. Mr I held a separate insurance policy for the building with a different insurer. He made a claim to that insurer for the building damage.

Mr I had made a previous claim for fire damage in 1999 and received a cash settlement for the repair works.

In 2020 Mr I complained to Aviva. He was unhappy with the length of time it was taking to deal with the claim and the level of claim costs of over £100,000 that had been accrued which Aviva said it would deduct from the contents sum insured amount of £129,613. Mr I had no idea that Aviva would deduct the claim costs from the contents sum insured. He was very concerned that the claim costs were such that he would not receive a fair settlement for his contents.

In January 2021 Aviva said it was sorry for the time it was taking to deal with the claim and paid Mr I £250 compensation. However, it said that the delays were due to issues with the buildings insurer, Mr I, the previous claim and the pandemic.

In March 2021 Mr I asked us to look at his complaint. Our Investigator thought Aviva had acted reasonably. She thought the delays were outside of Aviva's control. She explained that the claim costs accrued had been set out by the claims handling team for assessment, storage, materials, packing and cleaning involved in Mr I's claim. She thought Aviva had tried to mitigate some of the storage costs – it had wanted Mr I to accept the return of the items in storage as the buildings work hadn't started. Aviva had agreed with the buildings insurer for them to take over storage costs from October 2020.

Aviva said Mr I had underinsured the contents of his home. Despite this, Aviva said it would settle his claim by way of a cash settlement for the sum insured amount minus the claim costs. This meant Aviva's cash settlement offer was £43,044.31. It said Mr I hadn't yet provided a full list of the contents he wished to claim for – but that this clearly far exceeded the sum insured limit under the policy.

Mr I didn't accept the cash settlement offer Aviva made and didn't agree with the Investigator's findings. In summary he said that Aviva is in part responsible for the delay. He said Aviva hadn't taken into account the impact of the pandemic when considering his claim. He said the settlement offer is inadequate and prices for everything have gone up since 2017, so the offer should be at least based on today's prices. Mr I was unhappy with the costs the claims handling agent has charged under the claim as he believes they are excessive.

I issued a provisional decision on 14 March 2022. I thought Mr I's complaint should be upheld. I didn't think it fair for Aviva to deduct associated claim costs from the contents Sum Insured amount. I didn't think it was explained in the policy wording that Aviva would do this. I thought it reasonable for an insurer to factor in claim costs into the premium price it sets for the policy cover.

Both parties replied to my provisional decision. Mr I says that despite several requests, Aviva has failed to provide him with lists of everything removed from his home and the items that were either stored, cleaned, or declared beyond economical repair.

Mr I says he didn't receive £250 compensation from Aviva which was set out in their final response to his complaint in January 2021.

Aviva said it was clearly necessary to restore fire damaged contents rather than replace them, which would be more costly. So it said these sums must surely therefore be deducted from the overall sum Insured.

In response, I asked Aviva to provide a breakdown of the items that were cleaned and/or restored rather than replaced, the costs and whether the items were restored successfully, with the amounts it would have otherwise cost to replace the items.

Aviva hasn't provided a reply. As the date has passed for Aviva to respond, the case has been passed back 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.

As I haven't received any new information which changes my mind, my final decision is along the same lines as my provisional decision.

I don't intend to repeat all of the issues that both parties have raised in my decision which the Investigator has set out in two sets of findings to both parties on 20 December 2021 and 25 January 2022. But I can assure both parties that I have carefully considered all of the points raised. My decision focuses on the crux of Mr I's complaint and whether Aviva as the insurer for the contents claim has acted reasonably and in line with the policy.

Mr I believes that Aviva is at least partly responsible for a delay of two years at the beginning of his claim from 2017. He says if Aviva hadn't been in dispute with the buildings insurer over the claim, it would have been settled before the pandemic impacted in 2020.

I can only look at the actions of Aviva in my decision. As the insurer for the buildings claim is separate, I cannot consider their actions. This means it's very difficult for me to make a finding that Aviva contributed to a delay – as I cannot independently consider the actions of the buildings insurer and their communications with Aviva.

That doesn't mean that I don't agree with Mr I that this length of time is significant. I think it is. I can't hold Aviva responsible as the delays may have been down to the building insurer.

However, I also think it's worth mentioning that Mr I was insured for both buildings and contents and had two insurers that he could reasonably expect to do everything they could to deal with and resolve his claim. But I don't have enough to say that Aviva contributed to

issues outside of its control. I can see that until the building works part of the claim was completed – which as at January 2022 – was still not complete – some of the contents of Mr I's home were still either in storage or to be cleaned, repaired or replaced.

Aviva says it has utilised an allowance which would have otherwise been used for alternative accommodation to reduce the costs of storage for some of Mr I's contents by 75%. Aviva says that Mr I has a significant amount of contents and the amount removed from his home was over 20 pallets - with a significant amount of contents still remaining. This led to substantial storage costs which – as the time passed for the buildings claim to be dealt with – led to those costs increasing and this impacted on the sum insured limit for Mr I's policy.

Aviva has provided details of the costs it has paid under the claim so far and – having reduced the storage costs under the claim - leaves a remaining sum of £43,044.31 from a sum insured limit of £129,613. The claim costs have been broken down by Aviva as follows:

*Laundry - £6,169.43*  
*Contents cleaning - £12,237.40*  
*Packing - £9,370.22*  
*Removals - £6,626.68*  
*Inspection/Site meetings - £735.22*  
*Materials - £2,964.50*  
*Remaining works - £20,417.28*  
*French polishers call out charge - £55*  
*VAT - £18,828.96*  
*Reduced storage fee costs £8,535.50*  
*Final storage fee - £628.50*

Mr I says it was two years before Aviva told him that the claim costs were being deducted from the contents sum insured amount and he was shocked to find this out so late into the claim.

I've looked at what Aviva's policy says about how it will deal with a claim for contents. I know Mr I doesn't hold his building insurance cover with Aviva. But I've also looked at – by way of comparison – how Aviva explains how it will deal with a buildings claim.

Mr I's policy with Aviva says the following:

*Amount Insured*

*The amount insured as shown on the schedule, together with any adjustments for index-linking where applicable, is the maximum amount payable (subject to any specific limits detailed in the policy booklet) for all claims arising out of any one incident and continues in full following payment of any claim.*

*The amount insured under buildings must be adequate to rebuild your buildings as new including the cost of professional fees, site clearance costs and statutory costs.*

*The amount insured under contents and personal belongings (including valuables) must be adequate to replace all of the insured items, taking into account the basis of settlement described on page 17.*

Later under the policy it reads:

*9. Adequacy of Amounts Insured*

*You must ensure that the amounts insured are maintained at an adequate level at all times.*

*The amount insured for buildings should be sufficient to rebuild your home as new, including the cost of professional fees, clearance costs and statutory costs. In all other cases the amount insured should be sufficient to replace all of the insured items taking into account the basis of settlement shown on pages 9 and 17.*

I've checked the basis of settlement under the policy and Aviva doesn't provide information to show a customer that the sum insured for contents will reduce to take into account claim costs. Whereas – as a comparison – what the amount insured for buildings will take into account is clearly explained.

I've also checked the General Conditions and General Exclusions. I cannot find any information there to assist in explaining that the amounts insured for contents must be anything other than adequate to replace all of the insured items.

As I've said, I know Mr I doesn't hold buildings insurance cover with Aviva. But the policy wording is clear as to what the Buildings sum insured amount includes. I don't find however that there is any reference to claim costs being deducted from the contents sum insured. The policy says that the amount a customer quotes – which Aviva will provide cover for – is the amount it will cost to replace the items.

I don't think any reasonable consumer would expect for the costs of managing the claim such as storage, site clearing, cleaning, or professional fees to be deducted from the sum insured for contents when applying for a policy with Aviva. I don't know how Mr I – or any reasonable consumer – would expect to know that the contents sum insured amount it provides as to the value of their contents could be a significantly different sum on pay-out depending on the complexity or length of time taken to settle the claim.

Aviva's costs are not what the policy insures and not a question Aviva asks policyholders like Mr I to consider when noting the contents sum insured. It therefore follows that I don't think it fair or reasonable for Aviva to deduct such claim costs from the contents sum insured. I think that in the absence of an explanation under the policy, any reasonable consumer would assume that the price of the insurance which Aviva sets takes into account the costs of dealing with the claim – unless – as Aviva did with the buildings section of cover – explain what that will include.

However, where the insurer can show that a consumer has caused some of the further delays within a claim – which has led to increased costs for storage – then this service wouldn't consider it unreasonable for an insurer to look to recover such costs.

But – I have to bear in mind that when Aviva wanted Mr I to take back items from storage in August 2020 this was during the pandemic. And Mr I has explained that he was shielding at the time as he was clinically vulnerable. He said electrical rewiring was in the process of being completed, so it was counter-productive to take back items that had been removed for cleaning.

Understandably I think these factors contributed to the delay in settling his claim. I don't think it's reasonable for Aviva to consider deducting ongoing storage charges for the period it wanted Mr I to accept the return of the items. Aviva negotiated with the buildings insurer to take over the full costs of storage from October 2020. I cannot tell whether this is something Aviva could or should have negotiated sooner than it did. And under this claim, it isn't clear as to whether Aviva looked to regulate the escalating costs accruing by their agent.

But in the absence of clear wording under the policy as to how the contents sum insured will operate when a claim is made, I don't think it's reasonable for Aviva to deduct its claim costs from Mr I's contents claim. Insurers set a premium to provide cover and this should absorb any associated costs in dealing with a claim unless otherwise clearly explained.

I understand Aviva believes Mr I has underinsured the contents of his claim. But Aviva has been dealing with Mr I's claim for contents since 2017 and I don't think it fair or reasonable to now cite this as a possible reason not to meet Mr I's claim in line with the policy terms.

Mr I is unhappy that Aviva won't cover the costs for specialist valuations for some of his items such as antiques. In my provisional decision I said I didn't think his policy provides cover for such valuations. It may be that a more suitable specialist insurance policy would better meet Mr I's needs. As he bought the policy with Aviva through a broker, he may wish to discuss his needs with them for future insurance.

In response, Mr I says he assumes he will be allowed to obtain valuations on antique items and incorporate them into his claim. If Mr I wishes to obtain such specialist valuations at his own cost for such contents, I think it's reasonable for Aviva to take these into account under his contents claim.

This claim is clearly a complex one. There was previous unrepaired damage from an earlier claim. There are two insurers involved in rectification works for the building and contents. I appreciate that Mr I's property has a substantial amount of contents.

However, I think Aviva's handling of the claim hasn't been reasonable and it hasn't treated Mr I fairly. So in line with the policy, my recommendations are as set out below.

Mr I has raised concerns as to the items that have been packed as he believes some may have been damaged and/or stolen. Subject to Mr I receiving clear itemised packing lists of such items, if Mr I remains unhappy he will need to raise a new complaint with Aviva about these issues.

In my provisional decision I said Aviva paid Mr I £250 compensation when it replied to his complaint for the delay it had caused during the claim. Mr I says he hasn't received this compensation so I have amended my recommendations to reflect this.

I think the compensation award – along with my other recommendations – is enough to put things right so far under Mr I's claim up to and including Aviva's final response in January 2021.

### **My final decision**

My final decision is that I uphold this complaint. I require Aviva Insurance Limited to do the following:

- remove the associated claim costs from the contents sum insured amount under Mr I's policy and deal with his claim under the remaining terms and conditions of the policy.
- pay Mr I £250 compensation if it hasn't already paid it for the distress and inconvenience its delay caused him.

Aviva Insurance Limited must pay the compensation within 28 days of the date on which we tell it Mr I accepts my final decision. If it pays later than this it must also pay interest on the compensation from the date of my final decision to the date of payment at a simple rate of

8% a year.

If Aviva Insurance Limited considers that it's required by HM Revenue & Customs to withhold income tax from that interest, it should tell Mr I how much it's taken off. It should also give Mr I a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

.Under the rules of the Financial Ombudsman Service, I'm required to ask Mr I to accept or reject my decision before 12 May 2022.

Geraldine Newbold  
**Ombudsman**