

## **The complaint**

Mr and Mrs R complain that Aviva Insurance Limited (Aviva) declined their claim for an escape of water, and sent emails they couldn't access, in relation to their home buildings insurance policy.

Mr and Mrs R are represented by Mr C in their complaint. I will refer to Mr and Mrs R in my decision for ease.

## **What happened**

In September 2021 Mr and Mrs R contacted Aviva to make a claim under their building's insurance. They reported a leak under the tiled kitchen floor, from which they had heard a hissing sound. They arranged for a contractor to investigate who identified a leak and confirmed how this should be repaired.

Mr and Mrs R say they weren't able to open encrypted email responses from Aviva, so weren't aware what was going on with their claim.

In March 2022 Aviva wrote to Mr and Mrs R apologising for the difficulties accessing its emails. It explained encryption is necessary to ensure the security of its customer's data. It says other means of communication was available, and the problem was likely that an older email browser was being used to open its messages.

Aviva wrote again in July 2022. It apologised that Mr and Mrs R were unaware their claim had been declined. It says no evidence of a leaking pipe had been provided and confirmed its decision to decline the claim was correct. Aviva offered £150 compensation for the confusion in communicating its decline decision.

Mr and Mrs R didn't think this was fair and referred their complaint to our service. Our investigator upheld their complaint. She thought Mr and Mrs R had reasonably shown that a leak had caused damage in their home. She says Aviva should reconsider the claim as well as a claim for trace and access costs in line with its policy terms. Our investigation thought an increased compensation payment was appropriate totalling £250.

Mr and Mrs R accepted this outcome, but Aviva didn't respond. So, the complaint has been passed 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 have decided to uphold Mr and Mrs R's complaint. Let me explain.

It's the responsibility of the policyholder to prove, at least on the face of it, that they have a valid claim under one of the insured events (fire, theft, escape of water etc.) covered by the policy terms and conditions. If they are able to do so, then the insurer must pay the claim unless it can rely on one of the policy exclusions not to.

I can see from the records Aviva provided that Mr and Mrs R thought there was a leak beneath the quarry tiles in their kitchen. The notes say they asked if they could investigate this and were told by Aviva's agent that they could. The notes say they were asked to come back to it if there has been a leak and if damage has been caused to their property.

Aviva's notes show that Mr and Mrs R sent a photo of the floor with some tiles removed and a video of the tiles/grouting being lifted. The notes say that the business didn't think there was evidence of a water leak or damage in the images or video provided.

In September 2021 Mr and Mrs R arranged a visit from a local contractor to investigate the leak. He sent an email a few days later that says:

*"After my initial visit at your property.. on Monday 27th September 2021 and after consulting yourself we have come to the Determination that the old Lead Pipe Water Mains Feed is in need of replacing due to an apparant [sic] Leak that is causing the floor to Buckle and Crack.*

*The Procedure to fix this issue is as follows: We will dig out a channel to the depth of the existing pipe and chase it from the Threshold of the main front door to the feed underneath the Main Kitchen Sink, this will then be disconnected using a fully Qualified Plumber who will then replace the pipe with a new Local Authority Approved Pipe, Reconnect and Check for Leaks through Pressure Testing.*

*Once this has been done we will then Backfill the Channel and Concrete to the top, any leftover dig/spoil will be removed by myself this work will come with a 25 year Guarantee which will be Signed and Dated by Myself. My Fixed Price Quote to do this job for you which includes Labour Materials and Rubbish Removal is £3850."*

In a subsequent email the contractor says:

*"After being contacted by [Mr R] I visited his property to view a potential Water Leak on the Mains Pipe, due to the damp area of one particular part of the floor and also due to movement on the floors we quickly determined this to be true.*

*We thoroughly investigated it and excavated a channel from the threshold of the property right along to the end of the pipe that is situated in the Kitchen to expose the current old Lead pipework, the main cause of the Leak was found to be in the Hallway as shown in the Pictures provided you can clearly see the water Leak there pooling in our channel, we found further fractures throughout the run culminating in us taking out the whole run of the pipe and renewing with new Alcatene Piping according to Building Control Standards, all the work has been Pressure tested and I'm pleased to say that matter has now been fully resolved."*

I've read Mr and Mrs R's policy terms to understand what cover is provided here. The terms, under section three, say:

*"Cover: Physical damage to the buildings (parts a and b) caused by the following:*

*12. Freezing of water in fixed water or fixed heating systems and water or oil escaping from washing machines, dishwashers, fixed water or fixed heating systems causing physical damage to part a) of the buildings (see page 11 for definition).*

*This section includes up to £5,000 for removing and subsequently repairing/replacing elements of part a) of the buildings (see page 11 for definition) where this is a necessary step in order to locate the source of the escape of water or oil."*

From reading this, the policy covers damage caused by water escaping from fixed water

systems. It also provides cover in order to find a leak and to repair any damage caused to the building in finding it.

I note from Aviva's final response to Mr and Mrs R's complaint that it says there is no evidence of any damage to the property caused by the leaking pipe.

However, Mr and Mrs R's contractor identified that the leak had damaged the flooring, causing it to, "*buckle and crack*". The photos provided support this observation.

From what I've seen I think Mr and Mrs R have reasonably shown physical damage occurred as a result of a leaking pipe. Cover is provided by their policy for this eventuality, as well as for the work needed to investigate the leak and make good any damage caused in doing so.

Having considered all of this I think Aviva should reconsider Mr and Mrs R's claim in line with their policy terms, on the basis that they have demonstrated the leak caused physical damage to the building.

Aviva offered £150 compensation for the confusion that occurred when communicating its decline decision. I think this is fair. But there has been a delay in Aviva considering the claim because of its initial decline decision. I think Mr and Mrs R did enough to show they suffered an insured loss initially given the contractor's assessment and photos. This has caused frustration and inconvenience for Mr and Mrs R when pursuing their claim. I agree with our investigator's assessment that a total of £250 compensation is fair to acknowledge this.

### **My final decision**

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

- reconsider Mr and Mrs R's escape of water claim; and
- pay £250 compensation for the frustration and inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R and Mr R to accept or reject my decision before 14 October 2022.

Mike Waldron  
**Ombudsman**