

The complaint

Mr G is unhappy with the settlement Aviva Insurance Limited (Aviva) offered for his claim under his buildings insurance following an escape of water.

What happened

Mr G suffered an escape of water which meant he couldn't use his bathroom. He moved in with a friend, who I'll call Ms H, because she had the appropriate aid equipment he needed.

Mr G claimed under his policy and Aviva accepted it. However, the parties disagreed about the way the claim should be settled. Mr G wanted a change to the layout and furnishings in his bathroom. Aviva said that would be betterment and refused to carry out the additional work he wanted.

When Mr G brought his complaint to our service, Aviva had made a final offer to cash settle at £3,159.41 (inclusive of VAT), pay £415 disturbance allowance, and to waive the £100 policy excess. However, Mr G wasn't happy with the amount offered because it wouldn't cover the quotes he'd obtained, and it didn't cover the full cost of his alternative accommodation.

Aviva refused to increase the offer because the work Mr G wanted doing amounted to betterment. And it didn't think he'd incurred costs over and above those which he'd normally have to warrant an increase in the disturbance allowance.

Our investigator didn't think Aviva had treated Mr G fairly. While she agreed the work Mr G wanted was betterment, she didn't think Aviva had offered enough to cover the cost of labour to put the bathroom back as it was. Our investigator also noted that Aviva hadn't included the cost of trace and access, which it had advised Mr G to arrange, and she didn't think it had made a fair offer for the alternative accommodation. In light of the inconvenience caused, our investigator recommended that Aviva pay £500 compensation. She also recommended that Aviva pay for alternative accommodation to reflect the true costs, and arrange for its contractors to complete the work once Mr G had ordered the materials.

Mr G didn't agree with the settlement and he asked for further costs, such as those for his gas and electricity standing charges, and labour.

Aviva didn't agree. It said the cash settlement offer it had already made was reasonable and it wasn't appropriate for its contractors to complete the work once Mr G bought the materials. Aviva also said the policy didn't provide for alternative accommodation costs in Mr G's circumstances. However, it did agree to pay for the trace and access.

I issued a provisional decision in August 2022 explaining that I was intending to uphold Mr G's complaint. Here's what I said:

provisional findings

Firstly, for clarity, I'll set out what has already been offered and what remains disputed.

Aviva has offered to:

- pay the cost of materials at £1,577.27, plus VAT;
- pay for labour and waste removal at £1,055.40, plus VAT;
- pay £72 for the trace and access, which it has already paid directly to the plumbing company;
- waive the £100 policy excess as a gesture of goodwill, and
- pay £415 disturbance allowance.

Aviva doesn't agree that Mr G is entitled to:

- alternative accommodation costs;
- gas and electricity standing charges, and
- additional labour costs.

Mr G doesn't think Aviva has offered enough to settle his claim, and he would like an increase in the compensation of £500 proposed by our investigator.

Alternative accommodation

Aviva says that because Mr G was staying with a friend, he didn't qualify for alternative accommodation. However, it agreed to pay disturbance allowance of £415, which is intended to cover costs over and above those which he'd normally incur while works are being done.

Mr G provided evidence that he'd moved into a friend's house and he paid rent at £60 per week, rising to £80 per week after around 11 months.

I've looked at the policy to see whether the cost should be covered. The policy says:

Loss of rent and the cost of alternative accommodation

If the **home** is damaged by any cause covered under the **Buildings Cover** sections numbered 1 to 10 [this includes escape of water] and the damage means **your home** can't be lived in, **we'll** pay:

- ...reasonable accommodation expenses for all insured persons and their domestic animals up to the limit shown on **your schedule** until the **home** is ready to live in.

In this section 'reasonable additional accommodation expenses' means **we** will pay for alternative accommodation for **you**... taking all of the circumstances of **your** claim into account, including factors such as **your**... needs, the alternative (and comparable costs of) accommodation available in the area and the length of time for which it is required.

Looking at Mr G's personal circumstances, I can see why moving in with his friend was a better solution for him than accepting Aviva's offer of a hotel. The weekly cost doesn't appear to be unreasonable, and Mr G has clearly incurred costs above and beyond those he'd incur if he'd been able to live in his home. So, I'm satisfied that Mr G is covered for the alternative accommodation costs under the terms and conditions of his policy.

Ms H confirmed Mr G moved into her home in May 2021 and the weekly payment increased on 23 April 2022. I've looked at when Aviva assessed and reported on the damage, which wasn't until 15 June. The delay was due to Mr G's lack of availability. So, while I'd ordinarily

expect Aviva to pay from the date he moved out, I don't think it's fair for Aviva to pay for the first six weeks or so when it wasn't able to start work.

I'm minded to require Aviva to pay Mr G accommodation costs of £60 per week from 15 June 2021 to 23 April 2022, and £80 per week from 23 April 2022 until his home is habitable again. As Mr G incurred those costs and, therefore, didn't have the benefit of the money during this distressing time, I also think it's fair that Aviva pays 8% simple interest on the accommodation costs from the date Mr G incurred them until payment is made to reimburse him.

Disturbance allowance

Aviva offered £415 disturbance allowance. As I've already said, disturbance allowance is intended to cover costs over and above those Mr G would've incurred if the damage hadn't happened. Ms H confirmed that he contributed 50% of the costs for food, gas and electricity in addition to the rental amount. Thinking about this, Mr G would be responsible for his full gas and electricity bills and all of his food, so I don't think the costs would be any more than Mr G would ordinarily pay. I don't propose to ask Aviva to pay any disturbance allowance.

Gas and electricity standing charges

Mr G asked Aviva to pay the standing charges for the full period he was unable to live in his home because he wasn't using the gas or electricity. It's unclear whether Aviva agreed to cover these costs during contact with our investigator.

Standing charges are a fixed cost charged by the energy companies to make the supply available to a property. They're payable regardless of whether the homeowner uses any energy. I'm satisfied that the cost of the standing charges is one Mr G would've incurred regardless of whether he was at home or not. If Aviva covered those costs, he would be benefitting from staying elsewhere. Therefore, I see no reason to ask Aviva to pay for Mr G's gas and electricity standing charges.

Cash settlement and labour cost

Aviva offered Mr G £1,577.27 to cover the materials needed to put his bathroom back as it was before the escape of water. Due to the passage of time and increased material costs, our investigator recommended an uplift of £301.29 to reflect rising prices, excluding any elements of betterment. I think that's fair.

Our investigator recommended that Aviva appoint contractors to complete the repairs once Mr G had the materials, but Aviva disagreed. Having considered this, I'm minded to agree with Aviva.

A fair outcome would be for Aviva to either cash settle in full or source materials and complete repairs. A combination of the two may cause future disagreement. Aviva said the claim would be set back if it arranged the work, so its preference was to cash settle at this stage. Looking at the policy, Aviva is entitled to make that decision.

2. Settling claims

We can choose to settle your claim by: replacing, reinstating, repairing or payment. Replacement will be on a like for like basis or based on the nearest equivalent available in the current market.

If we are able to replace property, but we agree to make a cash settlement, we will only pay you what it would cost us to replace the item as if it were new.

I've looked at the quotes Mr G provided but they all contain an element of betterment, such that it's difficult to determine how much the quote would be just for the reinstatement work. Therefore, I don't think it's appropriate to require Aviva to settle the claim based on his quotes.

Aviva's records show several quotes, but looking at the final approved work schedules, I can see that the labour and material costs for reinstatement are specified.

Aviva offered £2,632.84 which was the cash settlement quote calculated by the contractor that completed the strip out works. So, I understand why Aviva made that offer.

However, looking at the other completed and approved work schedules - General Works (GW) and General Works 3 (GW3) - provided by the same contractor, the sum quoted doesn't reflect Aviva's offer. I trust that both Aviva and Mr G will be reassured that I've considered the figures, and in doing so, I think the following reflects a fairer offer.

Aviva's contractor quoted £4,791.65 for all works. That was broken down into two separate work schedules. One (GW3) was for the work done by the contractor, mainly strip out work, totalling £1,239.16. The remaining schedule (GW) was for the work needed to reinstate Mr G's bathroom, totalling £3,552.49.

These figures were broken down into categories of materials and labour (and other sundry items). Materials totalled £1,577.27, which is the same as the amount Aviva originally offered Mr G. However, labour totalled £2,727.94, which is substantially more than Aviva offered Mr G, and accounts for more labour hours than its offer to him. All these figures appear to exclude VAT, which I've assumed because Aviva added VAT to its offer.

Based on these figures, it seems Aviva's contractor calculated that it would cost £4,791.65 excluding VAT for all works. Taking the cost of the work completed away from that figure gives the total of £3,552.49, excluding VAT, which is shown on the GW schedule for the remaining work. As Aviva wishes to cash settle the claim rather than appoint contractors to complete the work, I see no reason why its offer should be less than this.

Going back to my earlier point about an uplift to reflect rising material costs, this remains a valid consideration. The proposed uplift is £301.19, so I'm satisfied this uplift should be added to the cash settlement offer, bringing it to £3,853.68, excluding VAT.

As Aviva has already confirmed it will pay the cash settlement inclusive of VAT, without need for a receipt, the total cash settlement figure for repairs would be £4,624.42.

Compensation

Mr G doesn't think the recommended payment of £500 is enough. He commented on the waste which needed removing and the overall inconvenience caused by Aviva's handling of his claim.

I agree that Aviva could've handled matters better. Specifically, I don't think Aviva considered his individual needs when he moved in with his friend, and it failed to recognise

that the policy provided for alternative accommodation. I can see how that would've caused Mr G the distress and inconvenience he described, so I think compensation is warranted.

However, as I've proposed to require Aviva to pay the alternative accommodation costs and increase the settlement figure, which includes removal of waste, I'm satisfied that £500 is enough to recognise the service shortfalls. I don't plan to ask Aviva to increase the proposed compensation of £500.

Trace and Access

Aviva has already settled the invoice of £72 directly with the trace and access company. Should that not be the case, I would expect Aviva to make the payment as previously agreed. Therefore, I don't see any need to make a further requirement in respect of this point.

Policy excess

As a final point, I note Aviva offered to waive the £100 policy excess as a gesture of goodwill. While I appreciate it made the offer to help bring matters to a close, I won't be asking Aviva to honour that offer. That's because I'm satisfied the proposals I've made here will put matters right and the policy excess is due under the terms and conditions for a valid claim. Therefore, I consider it reasonable for the cash settlement figure to reflect a deduction of £100 for the policy excess.

I said I was minded to require Aviva Insurance Limited to:

- pay Mr G's accommodation costs of £60 per week from 15 June 2021 to 23 April 2022, and £80 per week from 23 April 2022 until his home is habitable again;
- pay 8% simple interest* on the accommodation costs from the date Mr G incurred them to the date payment is made to reimburse him;
- cash settle the claim for repairs at £4,624.42, less the policy excess, and
- pay compensation of £500 in recognition of the avoidable distress and inconvenience caused.

I asked both parties to send me any further comments and information they might want me to consider before I reached a final decision.

Aviva didn't provide any further comments or information.

Mr G provided lots of additional comments in direct response to my provisional decision explaining why he didn't agree. In summary, he felt that I hadn't made sure Aviva paid all his costs.

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 Mr G's complaint but I won't be asking Aviva to do anything different to that set out in my provisional decision. I'll address the key points now.

Cost of materials, repair completion, labour and waste removal.

Mr G explained that Aviva hadn't made an offer for the cost of materials and he didn't think it was appropriate to pay for them himself without Aviva's permission. He also questioned that there was an offer for labour and waste removal.

All of these aspects of the work were included in Aviva's total offer. The cost of materials was included within Aviva's offer, but, as I said in my provisional decision, it isn't appropriate at all for Mr G to buy the materials for Aviva to fit. That would likely cause further problems. Therefore, I wouldn't've expected Mr G to buy the materials with or without Aviva's permission.

To clarify, I agreed with Aviva's point that it wouldn't be appropriate to cash settle for materials but then use its contractors to do the work. I explained in my provisional decision that Aviva should either source materials and complete the work or cash settle for materials and labour. There shouldn't be any option to provide a combination of the two as this would likely result in confusion.

Disturbance Allowance

Mr G repeated that the disturbance allowance of £415 was nowhere near enough and his costs are ongoing. I don't doubt that he continued to incur costs. However, I explained that disturbance allowance is intended to cover costs over and above those usually incurred. So, for example, if Mr G had been staying in a hotel, he'd have needed to pay for meals at the hotel's rate, which would likely be more than his usual costs to buy food at the grocery store. The position here is that Mr G stayed with his friend and they shared the cost of groceries. Therefore, I haven't seen any evidence that Mr G incurred costs over and above those he usually incurred.

Compensation

Mr G said Aviva's offer of £500 compensation is unacceptable after making him homeless for 16 months. I don't agree. The escape of water that caused damage meant Mr G couldn't live in his own home. Aviva didn't cause the damage so it would be unfair to say it made him homeless. And Mr G had somewhere to live, so it's unreasonable to say he was homeless.

For the reasons I gave in my provisional decision, I'm satisfied that the compensation Aviva offered is reasonable in the circumstances.

Accommodation costs

In my provisional decision, I said Aviva should cover Mr G's alternative accommodation from 15 June 2021. He disputes this and believes he should receive payment from the date of the claim.

When I considered this point, I saw that Mr G didn't get the leak fixed until some weeks after moving in with his friend. After a month, Aviva followed up on this and offered to do the repair as a chargeable job. It offered an appointment but Mr G declined. Aviva couldn't start any repair works until the leak was fixed so I don't think it would be fair to ask Aviva to cover the first few weeks of alternative accommodation costs when it was prevented from starting work.

Although Mr G says he didn't receive a written offer of a hotel, the notes from when he first reported the event show that he said he could stay with family, later amending that to staying

with a friend a few miles away. Aviva would have no reason to continue offering hotel accommodation to Mr G after having confirmation that he'd made his own arrangements.

Strip out costs

Mr G disputes that strip out works cost £2,632.84. The figure he refers to is the cash settlement quote prepared by the same contractors which completed the strip out works. It is not the cost of completing strip out work.

Settlement

I've thought carefully about Mr G's concerns about the settlement payment. The settlement is expected to put Mr G's bathroom back as it was before the damage. Any additional costs for changes to materials or layout compared to what he had before wouldn't be covered. I appreciate Mr G doesn't think that having different materials is betterment, but if the cost is greater than that to restore using the original materials, then it would be classed as betterment. I'm satisfied that my calculations represent a fair settlement figure based on Aviva's quotes compared to those which Mr G supplied.

Additional points

Mr G mentioned the cost of council tax and raised concerns about no longer being insured. The council tax is a cost Mr G would always have incurred, so I wouldn't expect Aviva to pay that. And providing Mr G pays his policy premium, I can't see why he wouldn't have insurance. However, he'd need to check directly with Aviva whether his cover is limited during repair work.

Overall, I'm satisfied the cash settlement set out in my provisional decision is fair and reasonable to address the repairs needed and evidenced in the schedule of work. Although Mr G clearly experienced some inconvenience and distress, Aviva's compensation offer is in line with what I'd expect. I haven't seen anything that warrants a change to my provisional decision, so the outcome is the same and for the same reasons.

My final decision

For the reasons I've explained above, and in my provisional decision, I uphold Mr G's complaint and Aviva Insurance Limited must:

- pay Mr G's accommodation costs of £60 per week from 15 June 2021 to 23 April 2022, and £80 per week from 23 April 2022 until his home is habitable again;
- pay 8% simple interest* on the accommodation costs from the date Mr G incurred them to the date payment is made to reimburse him;
- cash settle the claim for repairs at £4,624.42, less the policy excess, and
- pay compensation of £500 in recognition of the avoidable distress and inconvenience caused.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 25 October 2022.

Debra Vaughan
Ombudsman