

## **The complaint**

Mr G complains about Aviva Insurance Limited's handling of his Buildings Insurance claim.

All references to Aviva also include its appointed agents.

### *What I'm considering in my decision*

I'm recognise there have been issues prior to November 2021, when Aviva said it become aware of the claim. I also acknowledge there have been further developments in the claim, Aviva's position, and the subsequent offer of a settlement since its final response in May 2022. I also acknowledge Mr G has referred to further issues regarding this. But my intended findings focus on events from when Aviva says it become aware of the claim, around November 2021, up until its final response in May 2022.

However, I may refer to events outside this timeframe in the context of answering this complaint where necessary.

## **What happened**

Below is intended to be a summary of events that led to this complaint. Therefore, it doesn't include a full timeline or list of every point made.

- Mr G made a claim around February 2021 due to damage to a wall at his property. Mr G said he believed extreme weather preceding the wall's collapse was the cause – and accumulated melting snowfall may have exacerbated this.
- Mr G initiated the claim with a broker and originally the claim was initiated through a different insurer, under a different policy.
- Aviva say it became aware of the claim in November 2021.
- Aviva conducted a site visit in early December 2021, but Mr G said no further progress or response had been provided by Aviva on its position by January 2022.
- Mr G said he had to further chase Aviva in order to try and progress the claim.
- A further site visit was made by Aviva in February 2022. Following this, Aviva declined the claim it said the wall was in a poor state of repair and had not been damaged by a one-off incident but had happened gradually. Because of this Avia said it would be classed as wear and tear which is excluded under the terms of the policy.
- However, Aviva offered a 20% contribution towards the reinstatement of the wall as it felt a part of the wall could have been affected by the weight of snow. However, its position was that the wall failed due its condition and the weather had merely served to highlight this.

Mr G raised a complaint with Aviva in February 2022. Some of the points raised in his complaint letter relate fall outside of what I'm considering in this complaint, so I've not considered them here – as I've set out above.

However, I've summarised the key points Mr G has made relating to this complaint below.

- Aviva caused avoidable delays in its handling and progression of dealing with Mr G's claim, including failure to instruct experts sooner and referring to the appropriate departments.
- Aviva attempted to retrospectively add new and unreasonable terms to his policy – informing him the wall should have been inspected once a year by a builder.
- Aviva refused to provide information to Mr G about the claim. In particular, copies of the reports from site visits. As a result, Mr G had to make a subject access request to obtain information.
- Aviva continued to rely on incorrect assumptions that the weight of snow had caused the wall to fail. Despite Mr G informing them the claim had likely occurred due to period of unprecedented wet weather at the time of the incident.
- Aviva continued to rely on out-of-date quotes when offering a settlement to Mr G and didn't acknowledge this when he pointed it out.
- Aviva made a settlement offer to Mr G, but in correspondence he received through a subject access request, it has referred to making a lower offer to minimise the settlement cost.

In its final response, Aviva maintained its reasoning for declining Mr G's claim. However, it acknowledged it had caused some delays in arranging site visits following it becoming aware of the claim. It offered Mr G £150 compensation to recognise the inconvenience caused.

Mr G was unhappy with Aviva's response, so he brought the complaint to our service.

#### *Our investigator's view*

Our investigator recommended we uphold Mr G's complaint. To put things right, she recommended Aviva offer a further £200 compensation due to avoidable delays it had caused between November 2021 and May 2022. Mr G didn't agree with our investigator's recommendation and asked for an ombudsman to review the matter.

The complaint then passed to me.

I issued a provisional decision on 3 July 2023. In my provisional findings, I said:

*"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.*

*I understand Mr G has strong views about what has happened. I want to assure him I've considered everything he has submitted to our service to support his complaint very carefully.*

*However, my findings focus on what I consider to be the central issues, and not all the points raised. This isn't intended as a discourtesy. The purpose of my decision isn't to address every single point the parties have raised or to answer every question asked. My role is to consider the evidence presented by Mr G, and by Aviva, to reach what I think is a fair and reasonable decision based on the facts of the case. This reflects the informal nature of our service, it's remit and my role in it.*

*Having done so, I intend to uphold Mr G's complaint. I'll explain why.*

#### *The claim*

*Aviva instructed two representatives to attend the property, in December 2021, and again in February 2022. Both concluded ultimately the damage was a result of wear and tear. Aviva's*

*position was that had the wall been in a better condition, it would have withstood the weather conditions present around the time – referencing in particular the condition of pointing in the wall.*

*A previous report, prepared by a structural surveyor for Aviva's loss adjuster, prior to Aviva's involvement, was also available. But I can't see Aviva enquired about this until January 2022, when prompted by Mr G.*

*Our service has asked for copies of Aviva's reports – and any other information available relating to the claim. But to date these have not been provided. I can see from comments in the file the findings of this report are referenced to be similar in that it identified issues with gradual damage and wear and tear.*

*I understand Mr G's view is extreme weather, exacerbated by melting snowfall, caused the damage. I also acknowledge his concern this wasn't referenced in communication from Aviva when the claim was declined. I can see this has been considered within comments from Aviva, but I do agree this wasn't communicated well to Mr G.*

*From the information available, and in absence of any other evidence to the contrary, I can't say Aviva's conclusion was obviously wrong. So, at the point of issuing its final response of May 2022, I don't think Aviva had acted unreasonably in applying the exclusion to decline claim.*

*The offer of a 20% settlement*

*Aviva concluded the weight of potential snow fall could have contributed to the damage in a part of the wall. So, it made a commercial decision to offer Mr G a 20% settlement as a gesture of goodwill.*

*As this offer was a matter of commercial judgement it's not something our service can interfere with.*

*However, we do expect Insurers to treat people fairly. But based on what I've set out above, Aviva were not liable to offer any settlement to the claim, and it has done so here. So, while I appreciate Mr G's frustration at Aviva's comments about the range of their offer, I think it acted reasonably, at the time, in making the offer – as it was entitled to make no payment at all.*

*Avoidable delays and handling of the claim*

*However, I do feel the way the claim has been handled has been poor and in not in the spirit of treating customers fairly. Aviva caused avoidable delays in dealing with Mr G's claim, including failure to instruct experts sooner and referring matters to the appropriate departments.*

*Mr G has had to continually chase for the claim to be progressed. The claim did not progress initially for around six weeks. And despite the appointed loss adjuster being within the same company that handled the claim before Aviva's involvement, and information potentially being available from closer to the time of the incident, this wasn't enquired about until January 2022, over two months later.*

*Mr G was not given access to reports – despite multiple requests. Having reviewed the information available to me I think Aviva could have reasonably shared these and it has not provided a clear explanation as to why it didn't.*

*I don't think this aided the claim progressing. And its reasonable Mr G would feel the concerns he raised about how the issues occurred have not been considered properly. In turn, this prevented him from providing a full response to represent his claim.*

*I also think this would've caused unnecessary distress and inconvenience and a feeling of not being treated fairly by Aviva.*

*Aviva acknowledged some of the delays in progressing matters and has offered Mr G £150 compensation. However, I do feel further compensation is due and I think a total of £350 is in the region of what I would recommend to fairly recognise the distress and inconvenience Aviva's actions have caused Mr G under this complaint.*

*I recognise Mr G will likely be disappointed with my intended direction for compensation. But the role of this service isn't to make punitive awards. I understand Mr G feels very strongly about what has happened, and I appreciate why he might feel I should award a significant amount of compensation. However, having reviewed everything available to me, I'm satisfied the award is fair and reasonable for the reasoning I've set out.*

*Mr G's comments that Aviva tried to impose retrospective terms*

*I've reviewed the comments made about maintenance of the wall in the correspondence between Mr G and Aviva. And I don't agree this means Aviva tried to retrospectively impose a term.*

*There is no condition or endorsement on the policy that requires Mr G to have the wall inspected annually. But I've not seen anything that persuades me the claim was declined because Mr G didn't have the wall inspected annually. It was declined because Aviva believed the wall had failed due to wear and tear, which is excluded under the terms of the policy.*

*I can understand Mr G's comments regarding this, and I don't think Aviva needed to specifically reference annual inspections. However, I don't think it is unreasonable for it to provide examples of how it thinks the wall could have been kept in an appropriate condition or operation."*

## **Responses to my provisional decision**

Aviva responded to say it accepted my provisional findings.

Mr G didn't agree with my provisional findings. I've summarised the key points he's made below:

- Mr G referenced ongoing matters since Aviva's final response in May 2022.
- Mr G said my provisional findings wouldn't encourage Aviva to deal with matters in a manner which acknowledges the severity of the things it has done wrong.
- Aviva reason declining his claim wasn't valid.
- Aviva should have appointed an independent expert at the beginning of the claim.
- Aviva's offer of a 20% settlement was based on out-of-date quotes, and it has referred to making a lower offer to minimise the settlement cost in correspondence. Mr G says Aviva have later claimed this was done in error rather than a commercial gesture of goodwill.
- Mr G doesn't feel the compensation recommended in my provisional findings is fair or reasonable reprimand to Aviva.

## **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.

I've considered what Mr G said, but it doesn't change my decision – or my reasoning.

Mr G has referenced ongoing issues with his claim and subsequent developments which have seen Aviva accept liability. I'm aware a further complaint has been made to Aviva and should Mr G not be satisfied with its response; he may consider bringing a further complaint to our service. However, I've already set out what I will and will not be considering in this decision. So, I won't be commenting on this further.

I set out in my provisional findings why I don't think Aviva had acted unreasonably in applying the exclusion to decline claim at the point of issuing its final response of May 2022.

I understand opinion from an independent expert has later changed Aviva's stance on settlement. However, during the timescale I'm considering in this complaint it sent two representatives to Mr G's property to assess the damage.

Aviva is entitled to follow its usual processes when dealing with a claim, and that includes sending a loss adjuster in the first instance. And I don't think Aviva acted unreasonably at the time to rely on the information available as it did.

I understand Mr G's frustration that Aviva's correspondence referenced making a lower offer. But whether this was a commercial decision, or a mistaken offer, at the time, it was entitled to make no payment at all. So, I will make no further comment here.

Our service is not a regulator. As such it isn't our role to reprimand businesses or to make punitive awards. I understand Mr G feels strongly about what's happened, and what he's said is continuing to happen with his claim. However, from the time I'm reviewing in this complaint, I'm satisfied the award I made in my provisional decision is fair and reasonable for the reasoning I set out.

## **Putting things right**

To put things right, Aviva should pay Mr G a total of £350 compensation.

## **My final decision**

My final decision is that I uphold Mr G's complaint.

I direct Aviva Insurance Limited to do as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 16 August 2023.

Michael Baronti  
**Ombudsman**