

The complaint

Mr M complains about Aviva Insurance Limited (“Aviva”) for declining his home insurance claim, based upon a video call assessment. He wants Aviva to settle his claim and reimburse his costs.

What happened

Mr M insured his home with Aviva. His policy included cover for specified risks, which included escape of water.

In June 2022, part of the bathroom floor at Mr M’s home collapsed into the room below. This area of floor was underneath the bathtub and appeared to have been affected by water.

Mr M submitted a claim to Aviva. Aviva contacted Mr M and arranged to carry out a video call with him.

Mr M assisted with this and showed the claims handler the damage during the video call. Aviva took screen grabs during the call. Aviva subsequently declined the claim based on the video call. It had not sent any agent to inspect the damage in person.

Aviva considered that the video call showed that water had penetrated to underneath the bath from a defective seal around the top of the bath. It considered that this was not an escape of water from a system and so was not covered.

It also considered that there was evidence that the damage had occurred gradually over time and so an exclusion would apply.

Mr M complained. Aviva sent its final response letter in July 2022. It maintained that the damage was caused by the defective bath seal and water penetrating through over time. It therefore declined Mr M’s complaint.

Mr M contacted us. He was unhappy as he felt that his complaint had not been properly considered and he felt that his participation in the video call had been exploited to decline the claim.

Our investigator looked into this matter and initially upheld the complaint. They considered that Aviva had not done enough to demonstrate that an exclusion applied. As Mr M had since had repairs completed privately, they thought that Aviva should reimburse the costs of those works.

Aviva then provided some stills from the video call. These appeared to show evidence of mould along a board under the bath seal, indicating that water had saturated it over time.

Aviva made a number of other comments about the stills and considered that these demonstrated that the floor collapse had been caused over time and was not insured.

Our investigator accepted that there was evidence of mould and other water ingress and revised their view to no longer uphold the complaint. Mr M did not accept that view and

asked for an ombudsman decision.

I made some further enquiries with Aviva. Aviva did not respond to these, so I issued a provisional decision based on the information available.

In that provisional decision I set out that I considered that Aviva had not done enough to show that its decision to decline was fair. I felt that it had decided the claim prematurely and had not obtained or retained sufficient evidence to repudiate the claim. I noted, however, that the available evidence did suggest that there was another area of dampness or mould operating underneath the bath, and the repairs included a substantial upgrade of the bathroom. I therefore thought that Aviva ought to pay half of the costs of labour for repairs and replacement of his bathroom, and compensation for Mr M's distress and inconvenience.

That provisional decision has been shared with the parties and they have been invited to comment.

Mr M has responded. He has not explicitly accepted or rejected my provisional decision but has provided some additional information about an air circulation system which he had installed in his home. This would have operated everywhere except enclosed spaces such as behind the bath panel.

Aviva has now responded to my earlier questions along with the provisional decision. It states that the video call was not recorded, and the stills were taken during the call. It makes a number of comments about why it does not consider that there was a leak from a pipe under the bath, and why it believes that the main source of water into the floor was water tracking down the wall from a defective seal along the wall edge.

Aviva then says that it does not dispute that there was a leak, but that it disputes the level of damage caused by a leak. It also argues that any leak would have been gradual and intermittent, from the seals and grout, and not a constant leak from pipework which would have happened at a much quicker rate.

Aviva considers that I have unfairly decided that it concluded the claim prematurely, and it states that it will not repudiate claims with unfounded information, and it will always consider the evidence which is available.

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 have considered the comments of both parties, and my view remains the same as in my provisional decision.

To address Mr M's comments first, I appreciate his additional information about the air circulation system and how this would not work behind the bath panel. I understand his point to be that due to the type of building there could be condensation under the bath which the air circulation system failed to address, but this would just be condensation and not evidence of a leak through a defective seal.

I do not accept this. Whilst it is useful context, the stills from the video call show a baton fixed to the wall which appears to be damp and rotting. I do not consider that this is likely to be from condensation alone, but in any event, it would be from a gradual cause and would not be covered by insurance.

Moving then to Aviva's comments, I acknowledge that it has provided some evidence of a defective bath seal / grout which it considers, and which I accept, is a cause of moisture being underneath the bath. This is a baton on the wall, however, and is not evidence of what happened to the floor.

The available evidence does not show the pipe work under the bath so I cannot be satisfied that there was not an insured leak also contributing to moisture under the bath. Aviva has made comments about the damage occurring intermittently and this could also be from a bath fill/waste pipe, which is not in constant use.

The lack of evidence in this case is due to Aviva's failure to adequately investigate Mr M's claim. It is not enough to show some damage present which would not be covered, and Aviva ought to have properly investigated what might be covered. Evidence of that investigation ought then to have been kept to support its decision.

I appreciate that Aviva may be wholly satisfied that there was no leak from the pipes, but in the absence of an in-person inspection report or the source footage upon which their decision was based, I cannot be similarly satisfied.

I therefore remain of the view that Aviva declined Mr M's claim prematurely, and that Mr M's complaint should be upheld.

Putting things right

As I previously set out, I have taken into account that Mr M has carried out renovations and has installed an upgraded bathroom since the claim. I also consider that there was likely deterioration which was not due to an insured peril which required work and repair. I therefore thought that Aviva should contribute 50% of the costs of labour in the repairs and replacement of the bathroom, but Mr M should bear the cost of the new bathroom suite entirely.

As no comments have been received in respect of my provisional settlement, I remain of the view that it is the fairest way to resolve Mr M's complaint. I therefore adopt my provisional decision and reasons into this decision.

My final decision

For the reasons given above and in my provisional decision, I uphold Mr M's complaint and direct Aviva Insurance Limited to:

- Reimburse to Mr M 50% of the labour costs he has expended on repairs; and
- Pay to Mr M £100 compensation for his distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 21 August 2023.

Laura Garvin-Smith
Ombudsman