

The complaint

Mrs B and Mr B complain about Aviva Insurance Limited's ("Aviva") handling of their claim under their home insurance policy.

Mrs B has acted as the main representative during the claim and complaint process. So, for ease of reference, I will refer to any actions taken, or comments made, by either Mrs B or Mr B as "Mrs B" throughout the decision.

What happened

Mrs B made a claim to Aviva following a water leak. Aviva appointed a contractor to carry out repairs. The contractor dug up an area of crazy paving to get access to the supply pipe and carried out a spot repair – but they didn't then reinstate the crazy paving area. So, Mrs B complained.

Aviva responded and addressed the complaint relating to the spot repair carried out. In further communication between Mrs B and Aviva, Mrs B complained about them not carrying out the reinstatement work, but Aviva said this had already been addressed in a previous claim and complaint. Mrs B remained unhappy and made a Data Subject Access Request ("DSAR") and also raised concerns about the crazy paving not being reinstated. Mrs B referred her complaint to our service and explained she received the DSAR data outside of the statutory timescales. She also said Aviva hadn't made any arrangements to reinstate her crazy paving. She said they'd also deliberately created confusion by attempting to merge this claim and complaint with a previous unrelated claim.

Our investigator looked into things for Mrs B and Mr B. He thought Aviva had made an error in not considering the claim for reinstatement work and incorrectly merging this with a previous unrelated claim. He recommended they now consider this claim in line with the policy terms and conditions, and also pay compensation of £150. Aviva agreed but Mrs B and Mr B disagreed so the matter has come to me for a decision.

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 the complaint. And, I think the investigator's recommendation here is a fair way to resolve matters. I understand Mrs B and Mr B will be disappointed by this but I'll explain why I have made this decision.

Reinstatement of crazy paving

There's no dispute that Aviva's contractor, in order to gain access to the supply pipe, dug up an area of crazy paving. I can see Mrs B has provided photos which show how the crazy paving area was left - and how it still remains.

I can see, following Aviva's complaint response in June 2022, addressing the issue about the spot repair, Mrs B raises concerns in August about how a hole has been left covered up as it requires the crazy paving to be reinstated. Aviva respond in September and say the concern about the crazy paving relates to a previous claim which had already been addressed in 2021. I can see there was a claim and complaint addressed in 2021 but, looking at Aviva's complaint references and the facts of each claim, I don't think the crazy paving issue relates to the previous claim made in 2021, and instead relates to the claim made in 2022 relating to the spot repair carried out. So, I think Aviva have made an error here by incorrectly assessing the reinstatement work as being part of a previous and unrelated claim.

The information shows Mrs B continued to clarify this for Aviva and, on a number of occasions, she explained Aviva had incorrectly assessed the crazy paving repair as being part of a previous claim. Despite this, Aviva continued to maintain their assessment of this was correct. So, I think Mrs B has been caused upset, frustration and inconvenience in having to clarify this for Aviva on a number of occasions because of them maintaining their position – and I think it's fair for Aviva to pay compensation for this. I can't see Mrs B's request for the reinstatement work has been considered by Aviva. So, I think it's also fair for Aviva to now consider the reinstatement work to the crazy paving as part of the claim that was raised in May 2022, in line with the terms and conditions of the policy.

Data Subject Access Request

The information shows Mrs B raises concerns on 8 July 2022 about Aviva's decision to carry out a spot repair – this letter also includes a DSAR. Mrs B writes again on 30 August to say she hasn't received a response to her previous letter and again raises concerns about the claim. Aviva respond and acknowledge receipt of this letter. Aviva then write to Mrs B on 13 October and acknowledge her concern about not receiving a response to her DSAR in line with the regulatory timescale. I can see Aviva then ask for Mrs B to resend her letter of 8 July – which she does on 20 October – and they then provide the information requested on 3 November. In this letter, Aviva explain they have no record of receiving the letter of 8 July and apologise to Mrs B.

I can see our investigator has provided Mrs B with details of who she can complain to if she has concerns about any breach of regulatory requirements and timescales to comply with a DSAR – and I agree with this approach. However, in relation to this part of the complaint, I've also looked to see whether Aviva have acted fairly and reasonably. It's unfortunate if Mrs B's letter of 8 July wasn't received but I can't hold Aviva responsible for not responding sooner if they didn't receive the letter. I acknowledge Mrs B has provided a copy of this letter, which was sent by post, but there's no evidence this was definitely received. And I can see Aviva did then, once this letter was resent to them, respond to Mrs B with the information requested within a reasonable time. That said, I do think Aviva have made an error here. It's clear they received Mrs B's letter of 30 August, which referred to her not receiving a response to her previous letter of 8 July. Aviva respond to the 30 August letter, but I think they should've at this point asked Mrs B about her 8 July letter as it would've been clear to them at that point that it hadn't been received.

Customer service

I can see Mrs B is concerned about comments made in Aviva's system notes. In particular, she refers to a comment made which describes Mr B as a "*prolific complainant*". Mrs B feels this was an attempt to influence other staff when accessing records. I do acknowledge this upset Mrs B and Mr B and I also acknowledge their concerns about the motive in making this

comment. But I don't believe it was to unfairly influence other staff members accessing the records. The context in which this comment was made is in relation to Aviva noting they haven't received the letter dated 8 July. The note on the system says, "*He is a prolific complainant so I can understand why there may have been crossover or confusion with this...*" Looking at the statement as a whole, I don't believe this was intended to be a judgemental comment. Instead, I think this suggested there had been a number of complaints raised and, given they hadn't received the original DSAR, Aviva weren't certain whether a DSAR had been made, there had been a crossover with another complaint, or whether there might've been some confusion.

Taking into account the impact of the service on Mrs B and Mr B in relation to the claim for the crazy paving and not requesting a copy of the July letter sooner, I think it's fair and reasonable in the circumstances for Aviva to pay Mrs B and Mr B £150 compensation.

Putting things right

I've taken the view that Aviva have made errors in not assessing a claim correctly, and also not asking for a copy of a letter. So, Aviva should now consider the reinstatement work to the crazy paving as part of the claim that was raised in May 2022, in line with the terms and conditions of the policy. Aviva should also pay Mrs B and Mr B £150 compensation.

My final decision

My final decision is that I uphold the complaint. Aviva Insurance Limited must take the steps in accordance with what I've said under "Putting things right" above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B and Mr B to accept or reject my decision before 13 September 2023.

Paviter Dhaddy
Ombudsman