

The complaint

Mrs T complains Aviva Insurance Limited (“Aviva”) caused flood damage to her property by failing to attend a repair appointment under her Home Emergency Policy or, failing to repair a previous leak properly. She thinks Aviva should repair her plumbing system and the damage the leak has caused to her home.

Any reference to Aviva includes its agents.

What happened

Mrs T has a home emergency policy with Aviva, covering her plumbing and electrics. In October 2022, she claimed for two repairs due to a leak from her attic. In December 2022 Mrs T called Aviva again as she had problems with her hot water and toilet. During the call, she said she didn’t think her pipes had frozen as the cold water was running. Aviva agreed to send an engineer the following day but said they couldn’t help if the pipes were frozen.

Unfortunately, as the engineer was unable to make the appointment, it was rescheduled. There is some disagreement between the parties about whether Aviva did this once or twice but both parties accept Mrs T also moved one appointment from 23 to 28 December 2022.

On 28 December 2022, an engineer visited the property. Mrs T says, following some repairs, the engineer turned the water on and it flooded through her ceiling. She says it caused damage to her ceiling, flooring, electrics and furniture. The engineer’s notes from the appointment say they repaired burst pipes and the hot water cylinder had also burst.

Mrs T raised a complaint with Aviva the same day. She said the damage to her property happened because Aviva didn’t do the repair earlier. She says, if the first appointment went ahead, the problem would’ve been repaired and she wouldn’t have needed to turn the hot water off which ultimately caused her pipes to freeze over. Alternatively, she thought the problem may have stemmed from the issue in October 2022.

Mrs T’s explained she’s in poor health and finds it difficult to get around. She said when appointments were made, she found it difficult to travel to the property from where she usually lives and had to stay with friends as there was no heating. When the flood happened, she was left to clean up the water herself which she found very difficult.

Aviva responded to Mrs T’s complaint in February 2023. It offered her £100 for cancelling the first appointment. But it didn’t agree the problem was linked to the repair in October 2022. It also said if the engineer had attended earlier, they wouldn’t have been able to do anything to stop the damage as, frozen pipes and hot water cylinders aren’t covered.

Unhappy with Aviva’s response, Mrs T asked us to look into things. Our investigator didn’t uphold the complaint. As Mrs T didn’t agree, the complaint was passed to me to decide.

Aviva gave me more information including call recordings from when Mrs T first reported the incident, when the appointments were rescheduled and from after the engineer attended the property. It also provided a recent statement from the engineer which says the water had already flooded through the ceiling before they attended on 28 December 2022.

I issued a provisional decision on this complaint in August 2023. I thought the complaint should be upheld in part. In summary, I thought:

- It was unlikely the problems in December 2022 and October 2022 were connected.
- It wasn't clear, if the original repair appointment had gone ahead, it would've prevented the escape of water as the issues may have been unconnected or not covered anyway.
- The evidence didn't show Aviva cancelled more than one appointment or that it was solely responsible for the delay. And the pipes could've frozen after Mrs T cancelled.
- It was likely the engineer caused the leak by not taking reasonable precautions.
- Mrs T's testimony was consistent about what happened and she gave detailed information about the condition of her property before and after the visit during her calls.
- If water had flooded through before the engineer visited, Mrs T would've told Aviva.
- If the engineer saw water had flooded through as they said in their statement, they would've included that in their notes at the time, but they didn't. And Aviva only said the flood happened before the visit when I asked about the precautions the engineer took.
- I hadn't seen any other evidence which supported Aviva's view that the water had come through the ceiling before the engineer visited.
- Considering Aviva was aware Mrs T likely had frozen, damaged pipes, I thought the engineer should've taken better precautions not to cause further damage.

I asked both parties to make any further comments before I reached a Final Decision. Mrs T agreed with what I said. But she reiterated that Aviva cancelled more than one appointment and she said she didn't have evidence of the damaged furniture but her insurer had photos.

Aviva didn't accept my provisional decision. It said in summary:

- Mrs T's ceiling was damaged in October 2022 and an escape of water would follow the same path. So it questioned whether we have evidence this was repaired.
- Her pipes might've already frozen when she first called Aviva even if she had cold water.
- It's most likely the damage was caused between 23 and 28 December 2022, when Mrs T cancelled the appointment as that was enough time for the pipes to freeze and thaw.
- The engineer would've just carried out a controlled test – turning the water on briefly. So the amount of water that could've escaped at that point wouldn't have caused the flood.
- The engineer's notes said the pipework and cylinder had burst. And their statement said the cold-water tank had emptied. So, it's clear the flood happened before they arrived.
- If the flood had happened already, there'd be no more water left to escape when the engineer was there.

- Mrs T turning the water off wouldn't have prevented the pipes from freezing.
- The repair completed in October 2022 is unconnected to this complaint.
- It hadn't seen any evidence from Mrs T supporting her version of events.
- Mrs T has paid more than one excess payment for different repairs and, under the terms and conditions of the policy, she is due to pay both.

Following Aviva's response, I spoke to Mrs T about its comment on the excess payments. And she accepted the second excess was payable so I haven't looked into this further.

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 thought about everything both sides have said in response to my provisional decision. And overall, I think the complaint should be upheld. I'll explain why.

Aviva's questioned whether we have evidence the damage to Mrs T's ceiling wasn't pre-existing from October 2022. But I don't agree that's relevant. There's no disagreement that there was a large escape of water through Mrs T's ceiling in December 2022. And I'm satisfied this would've caused significant damage to it. The matter in dispute is whether Aviva's engineer caused the escape of water.

I agree with Aviva that Mrs T's pipework could've frozen before the engineer attended – and in my provisional decision, I've referred to this being likely. But I don't think it makes a difference in this case. I say this because, whilst I accept Mrs T's pipes may have frozen and become damaged before the engineer attended, I haven't seen evidence that the water had already flooded through too. And I think the existing damage to the pipes should've prompted the engineer to take extra care when carrying out the repairs.

I appreciate Aviva's indicated the flood damage most likely happened between 23 and 28 December 2022, after Mrs T cancelled the appointment. But I don't think there's any evidence to support what it's said here. Mrs T regularly called Aviva with updates on the condition of her property. There's nothing she said in any calls before the engineer visited suggesting the leak of water had already happened – and I think she would have said if it had (as she did in October 2022) because she wanted Aviva to visit promptly. Instead, she called Aviva straight after the visit to say the leak had happened while they were there.

Aviva says the engineer would've briefly turned on the water to carry out a test – so it wasn't possible for the amount of water described by Mrs T to leak through. But it's not given me any evidence to support this or to show Mrs T's recollections of the event are inaccurate.

The engineer's notes say the pipework and cylinder had burst by the time they visited. But Aviva's told me the cylinder was in the living room. So I'm not persuaded this is what caused the flood through the *ceiling* as it's suggested. It's also highlighted the engineer's statement says the cold-water tank was empty – so presumably it thinks this is what flooded through the ceiling. But the statement was written very recently, only after I questioned what safety measures the engineer took. And neither this, nor the flood was mentioned in their notes from the time. So overall, I'm not persuaded by what Aviva's said.

I understand Aviva feels Mrs T hasn't provided evidence to prove the damage was caused by the engineer. But I've considered everything in this case, including her testimony and the information she gave Aviva throughout the claims process. And I think what she's said has been consistent and persuasive. So whilst I accept there may have been a problem with the plumbing, I'm satisfied it's more likely the flood through the ceiling was caused by the engineer not taking sufficient care when carrying out the repairs. And I think they should have been more careful during the visit – knowing there were likely frozen, damaged pipes.

Mrs T has said she doesn't have any evidence of her damaged furniture because it was removed by the council after the flood. But she mentioned both Aviva and her home insurer attended the property to review the damage. She also said her home insurer took photos of the damage. So I suggest she contacts them for copies of the photos as I think it's for her to prove what furniture was damaged and needs repairing or replacing.

Putting things right

To put things right in this case, I think Aviva should:

- Pay Mrs T a further £750 on top of the £100 it's already offered her as compensation for the trouble and upset it's caused her. This should also make up for the increased premiums she will likely have to pay on her home insurance as a result of her claim.
- Reimburse Mrs T for any excess she paid on her home insurance policy for repair work needed as a direct result of the water flooding through her ceiling.
- Repair any outstanding damage caused by the leak to Mrs T's ceiling, electrics, floors and furniture (where repairing the furniture is possible), that hasn't already been carried out under Mrs T's home insurance policy. Alternatively, upon agreement from Mrs T, it should cover the cost of these repairs upon receipt of an itemised quote from Mrs T showing the work required or itemised receipts showing the repairs already carried out.
- Pay the reasonable costs of replacing any furniture which can't be reasonably repaired once Mrs T has provided evidence of the damaged furniture and itemised receipts showing what she's paid for replacements of a similar standard and quality.
- Add 8% simple interest from the date Mrs T has made any of the above payments until the date of settlement. HM Revenue & Customs requires Aviva to take tax from this interest. Aviva must give Mrs T a certificate showing how much tax it's taken off if she asks for one.

My final decision

For the reasons I've given, I uphold Mrs T's complaint and direct Aviva Insurance Limited to put things right by doing what I've said above. Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs T to accept or reject my decision before 15 October 2023.

Nadya Neve
Ombudsman