

The complaint

Mr P complained that he forfeited his opportunity to have alternative accommodation costs paid for when his holiday home was being reinstated during a claim. He was incorrectly informed he wasn't covered for these costs under his home insurance policy with Aviva Insurance Limited ("Aviva").

What happened

Aviva accepted a claim on Mr P's holiday home and authorised significant reinstatement works to be carried out.

Mr P said he was informed by Aviva's contractor that under his policy he wasn't covered for alternative accommodation (AA) whilst his holiday home was reinstated. Mr P said initially he was told he wasn't covered as the holiday home was habitable as it had bathing, cooking and sleeping facilities. When Mr P challenged this, the contractor said he wasn't covered as he wasn't living in the property. The contractor said Mr P was living in his main house.

Aviva's contractor later admitted the second home wasn't habitable whilst some of the reinstatement was being carried out. Mr P was also informed towards the end of the reinstatement works that he was covered for AA under his policy.

Mr P felt he'd lost the use of his holiday home for a year whilst works were being carried out. He said if he'd had it confirmed by Aviva during this time he could've claimed AA which he said he would've done.

When Mr P complained to Aviva, it said it would consider any AA costs that Mr P had incurred if he was able to share receipts to evidence the expenditure. Mr P thought this was unfair, as he hadn't been given the opportunity to benefit from AA whilst the works were ongoing.

Our investigator decided not to uphold the complaint. She said Mr P hadn't evidenced any losses and Aviva said they would only normally pay AA if someone was living at the property, or it was being rented out. Mr P disagreed, so the case has been referred to an ombudsman.

My provisional decision

I made a provisional decision on this on 19 September 2023. I said:

"I have started by reviewing the policy. The policy includes cover for "loss of rent and cost of alternative accommodation". The policy explains "if your home can't be lived in because it's been damaged by something which is insured under your policy, we will pay for the following until it's fit to be lived in:

- reasonable additional alternative accommodation costs for you (including your pets) if you live in the home;*
- any ground rent you still need to pay;*
- if you have a lodger or tenant we'll pay;*

- any rental income you lose from them; or
- reasonable additional alternative accommodation costs for them (and their pets), if they don't have other insurance to cover it".

The policy schedule has a specific clause applicable to the cover. It said if the home is left unoccupied, it needs to be "inspected at least every 14 days by a responsible person".

Therefore, my view is that Mr P was entitled to receive AA for the period his home was uninhabitable. Aviva or its contractors changed its advice to Mr P on what was covered more than once, which led to Mr P not been able to utilise the benefit he'd paid for. I think Aviva has since confirmed Mr P did have cover. I also think that as its paid out on the damage claim itself, it has assured itself Mr P was covered under the general terms of the policy and hadn't thought the property was unoccupied.

Mr P has consistently said he frequently visited his second home. Aviva hasn't provided any evidence to show he wasn't living there in circumstances that sits outside the policy cover. So, I think Aviva and its contractors have let Mr P down in this claim. Therefore, I intend to uphold this complaint.

When thinking about how Aviva needs put this right, I need to consider the actual financial loss suffered. As Mr P wasn't aware he could claim AA he didn't arrange alternate accommodation at his own expense. He didn't have confidence his costs would be reimbursed by Aviva. He'd received inaccurate advice.

Therefore, no financial loss has occurred. Mr P continued living in his main home during this period. However, this doesn't mean Mr P hasn't suffered during this time. He's told our service how he normally uses his holiday home frequently. He's not had the use of this facility whilst it was uninhabitable. Aviva didn't offer him AA at the appropriate time, so Mr P missed the opportunity for this. So, whilst I don't think Mr P has suffered financial loss, I do think Aviva should pay Mr P compensation for the distress and inconvenience its caused.

I think not having access to the property will have impacted Mr P's wellbeing. A holiday home would've provided Mr P a release and relaxation away from his day-to-day activities. He was not getting the benefit of one of his assets. I think the conflicting advice Mr P received would've been frustrating – especially as it meant he didn't have the downtime he's used to. Mr P wasn't given this opportunity.

So, whilst I don't think a financial loss has occurred, I think the distress and inconvenience has been significant. I don't think Aviva has fairly considered this by just saying no financial loss has occurred. I don't think it has applied the terms and conditions of the policy fairly. Therefore, I intend to award £1,500 in compensation – it's a large award, but I think it reasonably reflects the distress the lost opportunity of downtime has caused Mr P".

Responses to my provisional decision

Mr P didn't accept my provisional decision. He said Aviva had several opportunities to provide him AA which he estimated would've cost around £750 per week. He said Aviva have benefitted by £39,000 over the period by not providing him with his policy entitlement.

Mr P provided the same evidence again that Aviva had argued for some time that his holiday home wasn't his main home and so it said he wasn't entitled to AA and then Aviva said his holiday home was habitable before changing its mind, saying he could've had AA under the policy. He didn't think Aviva had informed him of his escalation rights to our service.

Aviva didn't accept my provisional decision. It thought the compensation award was high and outside of our service's award framework. It suggested an award of up to £750 was more appropriate.

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 appreciate what Mr P said that he thinks Aviva has saved a significant sum by not paying for AA during the period of the claim. However, I think it's unreasonable to suggest Aviva would've needed to pay for AA every week the holiday home was uninhabitable. I don't think Mr P has provided any evidence to suggest he was expecting to be living in his holiday home most of the time during this period.

I think it's more likely as the name suggests, that the holiday home would've been used for breaks away. It has been explained to Mr P that our service can only pay for financial losses incurred. Mr P hasn't provided any evidence that he incurred other costs for renting out accommodation during this period. I appreciate his point that he didn't rent out other accommodation as he wasn't aware he could, but the fact remains he hasn't suffered a financial loss. Or at least this hasn't been evidenced to our service. I can't make an award where financial loss hasn't been incurred.

I appreciate that Mr P has lost the opportunity to enjoy his holiday home, which is why I think he has suffered distress and inconvenience because of this, as I explained in my provisional decision. Aviva has argued that the level of compensation I've awarded is too high. I disagree, so I won't be changing my original decision. I think the disruption has gone on for a long time and would've caused substantial distress. I'm persuaded that Mr P would've enjoyed his holiday home multiple times during this period if he could've done – not having access to this would've had a serious impact on his leisure and relaxation time.

I can see Aviva's final response letter did inform Mr P of his escalation rights to our service. As this is what it is required to do, I won't consider this point any further.

My final decision

My final decision is that I uphold this complaint. I require Aviva Insurance Limited to pay Mr P:

- £1,500 compensation – for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 31 October 2023.

Pete Averill
Ombudsman