

The complaint

Ms D complains about the amount Aviva Insurance Limited paid for a claim she made under her buildings insurance policy.

What happened

I'll summarise the main points about this dispute:

- Ms D held a buildings insurance policy, underwritten by Aviva, for a property she rented to tenants.
- After the tenants reported a water leak, Ms D arranged and paid for a company, P, to locate the source of the leak, fix it, and repair the water damage.
- Ms D then got in touch with Aviva. It accepted the claim and agreed to pay for some, but not all, of Ms D's costs. In summary, Aviva:
 - Declined to pay for the pipe repair.
 - Offered to pay for the building damage in full, less the policy excess.
 - Offered £1,500 toward around £3,500 for the trace and access. It thought the time taken by P to source the leak and P's hourly rate was excessive. It based the settlement offer on what it thought a reasonable cost would have been had it been able to carry out the work.
- Ms D accepted the pipe repair wasn't covered by the policy but she thought the offer towards her trace and access cost was unfair. Whilst Aviva said leak detection services could have located the leak quickly, Ms D didn't think that would have made a difference as P located the leak promptly. She said much of the time taken by P involved removing the ceiling and a large, fitted cupboard, which was unavoidable.
- Our investigator thought Aviva had acted fairly as it was entitled to settle the trace and access cost at the amount it would likely have paid had it dealt with the claim.
- Ms D reiterated that the time taken to trace and access the leak was unlikely to have been lower if Aviva had dealt with the claim. But she accepted it would likely have been charged a lower hourly rate. As a result, she suggested it offer around £2,500 for the trace and access work. She also said it wasn't clear that she was required to contact Aviva from the outset, rather than engage a local company and claim later.
- An agreement wasn't reached, so the complaint has been passed to me.

My provisional decision

I issued a provisional decision in which I said:

I've considered all the available evidence and arguments to decide what's fair and

reasonable in the circumstances of this complaint.

- Aviva accepted the claim in principle and offered to pay in full for the building damage. It declined to pay for the pipe repair and Ms D has accepted that. As these points aren't in dispute, I won't comment on them further. I'll focus on what remains in dispute, which is the amount Aviva offered toward the trace and access cost.
- Whilst Aviva initially thought the amount Ms D paid included the cost of chlorination, she's pointed out it didn't. The document she received from P merely quoted for it. So that point won't be relevant when considering how much Aviva should pay.
- The policy says Aviva "will pay reasonable costs and expenses required" to trace and access the leak. It doesn't specify that these costs will be based on what Aviva may have been to pay for trace and access – or on what Ms D paid. It simply requires settlement to be based on the 'reasonable' costs.
- The policy schedule contains a prominently highlighted section called "Your obligations – action you must take". Amongst other things, it says "you must tell us immediately or at least within seven days of becoming aware of any incident which may result in a claim" and "you can with our consent arrange for urgent repairs to be done immediately".
- Ms D got in touch with Aviva within seven days, so she complied with the first obligation. She didn't comply with the second – but it doesn't set out the consequence of arranging repairs without Aviva's consent. For example, it doesn't say that this would entitle Aviva to settle the claim at its own costs.
- Taking these parts of the policy documents into account, I'm not satisfied Aviva has a contractual right to limit the claim settlement to what it would have paid to resolve the problem if it had been in control of the work. I'm satisfied Aviva is obliged to pay the 'reasonable' cost for the work. I'll consider what that is, based on the information available to me.
- Given what Ms D has said about the nature of the trace and access work, it's not clear why Aviva thinks leak detection would have significantly sped up the process. It hasn't explained itself – it's merely suggested leak detection *can* speed things up in some cases. But, in this particular case, Ms D says the leak was found quickly and most of the time was spent accessing it. Because of this, I'm not persuaded the time it took P was unreasonable. And even if Aviva were in control of the work and used leak detection, it seems unlikely that would have made a significant difference.
- Aviva says P's hourly rate was unreasonable. It has access to rates which are significantly lower. So Aviva could have carried out the same work for a much lower cost. Whilst the policy doesn't entitle Aviva to settle the claim at its own cost, I think that cost is a relevant factor when considering what a reasonable amount is.
- Taking P's time, at Aviva's hourly rate, plus materials, comes to roughly £2,500 – as Ms D pointed out. I consider this figure to be a 'reasonable' cost in the circumstances, as well as a pragmatic compromise to the dispute. So I'm satisfied Aviva should pay this much in total for the trace and access. If it's already paid the £1,500 it offered, it need only pay £1,000 more.
- Had Aviva settled the claim along these lines initially or during discussions, Ms D would likely have received the extra £1,000 around a year sooner. It would also have

saved her some avoidable inconvenience dealing with the matter. To take both of these things into account, Aviva should also pay £200 compensation.

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.

- Ms D said she was delighted I'd agreed with her suggested settlement figure. And whilst she was pleased I'd suggested compensation, she asked that I increase the figure given the rate of inflation since she made the claim. She said she hadn't received the original £1,500 Aviva had offered her.
- Aviva reiterated the term found in the policy schedule and noted above. It said Ms D didn't consult with Aviva prior to instructing P and P's costs weren't reasonable.
- I've thought about the responses provided by both parties and I'm satisfied the outcome I set out in my provisional decision remains a fair one in the circumstances.
- In my provisional decision, I took into account the term Aviva mentioned. I explained that it didn't set out the consequences if Ms D didn't comply with it. And I also noted the policy wording said settlement was to be based on the 'reasonable' costs. So I've already considered the point Aviva has made. Thinking about it again, I remain satisfied that both terms taken together don't entitle Aviva to settle at its own cost – but that it should settle at the reasonable cost.
- I agreed with Aviva that it would be fair for the claim to be settled at Aviva's hourly rate, rather than P's. Ms D has accepted that too. Aviva hasn't challenged my view that the amount of hours is reasonable in the circumstances. So I don't think this point is in dispute or needs any further discussion.
- Ms D was entitled to ask Aviva to pay the £1,500 it had offered. So she didn't have to go without that sum. And in any case, my award wouldn't be based on inflation but on the consequence of being without the additional £1,000 for longer than she ought to have been. That's likely to be missing out on interest or the opportunity to use the money. Taking that, and the avoidable inconvenience, into account, I'm still satisfied that £200 compensation is fair and reasonable in the circumstances.

My final decision

I uphold this complaint

I require Aviva Insurance Limited to:

- Pay a total of £2,500 for the trace and access claim.
- Pay £200 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask X to accept or reject my decision before 27 November 2023.

James Neville
Ombudsman