

The complaint

The estate of Mrs H complains about Aviva Insurance Limited's handling of a buildings insurance claim.

All references to Aviva also include its appointed agents.

Mr H1, Mr H2 and Mr H3 have brought the complaint on behalf of the estate of Mrs H. For ease, I shall refer to Mr H1 solely below.

What happened

The details of this complaint are well known to both parties, so I won't repeat them again here. Instead, I'll focus on giving my reasons for my 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.

I understand Mr H1 has strong views about what has happened. He's provided detailed submissions to support this complaint and I want to assure him I've read and considered everything he has said carefully, including his comments regarding how he feels this complaint should be viewed by our service and regarding compensation.

Neither my decision, nor its reasoning, are intended to be meant as a discourtesy, but I'm not upholding the estate of Mrs H's complaint.

I acknowledge this will be a disappointment to Mr H1 but I'll explain why.

Aviva acknowledged there were issues with the claim and I can see it has taken steps to put right issues that were raised about the workmanship relating to repairs. It also offered compensation to reflect the issues raised about quality of the work and the delays caused. Having reviewed this, I think this is in line with what our service would expect.

Having reviewed all policy schedules available, including 2021 and 2022. I can see the policies up to 2022 were in the name of 'executors of the estate' and not of Mr H1 or any other individuals.

I can see a schedule from 2023, which is in the name of Mr H1 and other individuals. Aviva said this was a new policy and I can see this schedule shows a different policy number to the schedules of 2021 and 2022. So, I'm satisfied this isn't the same policy.

However, I will also add that the complaint is about the claim, which is an event that started prior to 2023, when the policy was in the name of the estate of Mrs H. So having reviewed everything I'm satisfied the policyholder was the estate of Mrs H and Mr H1 was acting in his capacity as the executor of that estate.

This service can consider a complaint from an eligible complainant – and one that, for example, stems from their relationship with the business as a customer or potential

customer. Mrs H was Aviva's customer in the context of this complaint. Mrs H was the eligible complainant and, following her passing, those rights passed to her estate.

Although the executors represent the estate in bringing this complaint, the complaint itself isn't theirs. Their role is to bring the complaint on behalf of the estate, in the same way a person might instruct a solicitor or other representative to act for them.

As Mr H1 is bringing this complaint as a representative of the estate of Mrs H, he is acting as a representative and is not the 'eligible complainant'. This is set out in DISP 2.7 of the FCA handbook.

I don't have the power to look at a complaint from the executors in their personal capacity, or to look at how this matter has affected them personally. In saying this, I understand the points Mr H1 has made regarding this. And it's clear this matter has been stressful for him to deal with on a personal level, but that's not something I can specifically consider.

I can award compensation for the financial losses and/or inconvenience suffered by the eligible complainant. In this case, that's the estate. I think that in recognising the matters Mr H1 has set out and offering compensation, Aviva has acted fairly. And as I have explained above, goes beyond what I could award.

I'm aware Mr H1 said there are published decisions on our website where compensation has been issued to executors of an estate. However, my decision and reasoning remain as I've set out above.

My final decision

My final decision is that I do not uphold the estate of Mrs H's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mrs H to accept or reject my decision before 28 June 2024.

Michael Baronti
Ombudsman