

## **The complaint**

Mr G has complained about Aviva Insurance Limited's decline of a claim made under his "Plumbing and Drainage Plus" insurance policy.

Aviva is the underwriter of this policy, *i.e.* the insurer. Part of this complaint concerns the actions of the agents it uses to deal with claims on its behalf. As Aviva has accepted it is accountable for the actions of the agent, in my decision, any reference to Aviva includes the actions of the agents.

## **What happened**

Mr G contacted Aviva in June 2023, as there was a leak in his property. I understand there was evidence of damp to the walls downstairs.

Aviva arranged for a contractor to attend on 28 June 2023 but Mr G says no one came on that day. This is disputed by Aviva, which says its contractor arrived on 28 June 2023 but there was no answer at the house or on the telephone number given. Another appointment was arranged for 3 July 2023. At that appointment the contractor said the leak was probably from the soil stack from the upstairs bathroom but there was no access to it to complete further investigations.

Aviva sent another contractor out on 13 July 2023, who said there was a leak in the bathroom behind the bath panel, as a result of damaged seals and this could be causing the problems on the ground floor. Aviva said that repair of the damaged sealant was not covered under the policy, as it would be considered to be general maintenance. Mr G therefore had the seals repaired at a cost of £200 but the problem persisted.

Aviva sent another contractor on 20 July 2023, who told Mr G that the leak may be from drains under the floor downstairs but he'd need to take up the floor to be sure, so to wait and see if repairing the seals made a difference.

Mr G says he paid for the soil stack to be made accessible (by taking the plaster off the wall) and there was no leak apparent. The issue became worse and so he contacted Aviva again on 23 August 2023.

Aviva sent another contractor who said the soil pipe had come apart under the concrete floor, and underfloor heating, in the kitchen.

Aviva said this was not covered by the policy, as the policy excludes cover for issues caused by third party interference and it said the pipe appeared to have been damaged while a new extension had been built six months before.

Mr G is very unhappy with this. Mr G says the contractors sent by Aviva failed to diagnose the problem in a reasonable time, which meant that damp was allowed to spread and cause considerable damage to his property, which will cost around £20,000 to fix. And his policy provides cover for damaged drains, so Aviva needs to honour that cover and repair the leak.

Aviva accepts there was a delay in telling Mr G the repair of the seals was not covered under the policy of around four days. However, it says there were no other undue delays. Aviva says it was agreed that Mr G would monitor the situation once the seals had been repaired and when he contracted it in August 2023 it investigated further.

Aviva also maintains its position that the policy does not provide cover in this instance.

Mr G remained unhappy with the situation, so referred the matter to us. Mr G has made a number of points in support of his complaint. I have considered everything he has said but have summarised the main points below:

- He spent £200 on repairing the seals which was not necessary and should be reimbursed.
- The excessive delays on Aviva's part meant the damp spread throughout the downstairs of his property.
- It has been incredibly stressful, living with a damp problem and seeing mould develop on the walls.
- The problem was not with the soil stack but with the drains under the floor.
- He has drains cover and Aviva should have honoured the cover and fixed the drains but it sent incompetent contractors that did not address the problem, or failed to turn up.
- His wife took a day's annual leave to be at home all day on 28 June 2023, but no one turned up. He has a doorbell camera, so would have known if the contractor had been at the door.

One of our Investigators looked into the matter. She did not recommend that the claim be met, as she considered that Aviva was entitled to refuse cover for repair of the pipe. The Investigator also said she didn't think the advice to repair the seals was wrong, as they were leaking, even if they were not the source of the main water damage in the property.

The Investigator did however, recommend that Aviva pay £200 compensation to Mr G, as she considered that it could have made access and investigated the soil pipe under the floor sooner than it did, although she noted this would not have made any difference to the outcome of the claim, or the position Mr G is now in.

Aviva confirmed it accepts the Investigator's assessment.

Mr G does not accept the Investigator's assessment. He says that the £200 recommended will not go anywhere towards the damage caused by Aviva's delays.

As the Investigator has been unable to resolve the complaint, it has been passed to me.

### **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.

#### Should the claim be covered?

Mr G's policy provides cover for issues with his plumbing and drainage. The relevant part of the policy is as follows:

*"What is Covered? Plumbing and Drainage:*

*You are covered for problems relating to your plumbing and drainage. The engineer will resolve the immediate problem by repairing or replacing leaking pipes; clearing blocked drains; repairing taps; restoring toilet facilities, repairing leaking overflows; investigating the causes of noisy pipes and quietening these where they can be accessed. The engineer will leave a blocked drain running clear or repair a damaged section of drain which is leaking or causing a permanent blockage. This will include the temporary reinstatement of any excavations carried out as part of the claim."*

*"Temporary reinstatement" is defined as "the re-filling of any necessary excavation to leave the ground level and safe. This does not include the like-for-like reinstatement of decorative elements."*

There are also various conditions and exclusions that apply to the policy. The exclusions relied on by Aviva in this case are as follows:

*"General Exclusions The following are also excluded from cover and therefore the Underwriter will not be liable for any of the following ...*

*h) any defect, damage or breakdown caused by malicious or wilful action, negligence, misuse or third party interference, including any attempted repair or modification to the elements covered by this policy, which does not comply with British Standards...*

*k) normal day to day maintenance of the items covered by your policy at your property, for which you are responsible".*

The leak causing the damage downstairs was traced to a soil pipe under the floor in a newly built extension. Aviva's contractor says this is likely to have been damaged when the extension was built and the underfloor heating system was put in over the top of it. I have seen no evidence that would counter this. If it had failed before, I think it is unlikely the builders would have built over it. It also seems to me likely it would have taken some time for

the leak to become apparent. Given the fact Mr G was aware of it as a result of rising damp around six months after the extension was built, and no other explanation for the damage to the pipe has been proffered, it seems more likely than not to me that it was damaged during the building of the extension.

Given this, I am satisfied that Aviva is entitled to rely on the above exclusion that states it will not cover damage caused by "*negligence, misuse or third part interference*". I do not therefore intend to require it to repair the leak.

#### Appointment on 28 June 2023

It is of course impossible for me to be absolutely certain what happened on this day. Where there is a direct conflict of evidence, as in this case, I have to consider everything available to determine what I think is most likely.

Mr G is adamant that his wife was home all day and no one from Aviva attended the property. Mr G has said he was trying to obtain footage from his doorbell camera but has not been able to as yet.

On the other hand, Aviva has provided confirmation from the contractor that it attended, with specific time and a photo taken of the front of the house. It has also confirmed his van was tracked at the address.

While I note what Mr G has said, I find the evidence from Aviva persuasive that an engineer did attend.

#### Claims-handling and delays

It took around two months in total for the source of the leak to be found, from the time Mr G first reported the claim. As stated above, I think Aviva did attend on 28 June 2023. There was then an appointment on 3 July 2023, during which it was ruled out that the leak was from the central heating system or supply pipes and concluded it was likely from the soil pipe from the bathroom. However, that contractor said that access to the pipework would have to be made in order to investigate further.

On 13 July 2023 Mr G was advised to repair the seals in the bathroom and this could have been the cause. I don't think this was unnecessary or unreasonable advice overall given that Aviva's notes say that a leak was being caused as a result of the damaged seals, so it was reasonable in my view to advise that these be repaired. I also do not think it was unreasonable to take a cautious approach before taking up flooring or damaging walls to make access.

Aviva says the repair of the seals in the bathroom is routine household maintenance and so excluded from cover. I agree with this. Sealant is subject to wear and tear and will degrade over time. And I have already set out why I think Aviva was not acting unreasonably in recommending this be repaired. Given this, I do not consider that Aviva should be required to reimburse the cost of this repair. However, given the findings already made on 3 July 2023, I think more could have been done between 13 July and August 2023 to make access to the pipe work downstairs, to establish if the soil pipe was also leaking. I therefore agree with the Investigator that there was some delay in establishing the source of the leak.

Mr G says this allowed the damage to the property to be much worse than it would otherwise have been. I have not seen anything persuasive to support this. It is impossible to know for certain when the leak started but it seems to me likely the pipe was leaking for some time before Mr G became aware of it (given it appears he was alerted to it as there was rising

damp in the property and this usually takes some time to become apparent); and because the evidence suggests it was caused while the property was being extended around six months earlier. It seems to me likely that the majority of the water damage would have already occurred and there is no evidence as far as I am aware that making access on 13 or 20 July 2023 (instead of in August 2023) would have made any significant difference to the repairs needed to repair the water damage. Having considered everything, I therefore agree with the Investigator that the sum of £200 is reasonable.

### **My final decision**

I uphold this complaint in part and require Aviva Insurance Limited to pay Mr G the sum of £200 compensation for the distress and inconvenience caused by its handling of his claim.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 10 June 2024.

Harriet McCarthy  
**Ombudsman**