

The complaint

Mr and Mrs D complain that Aviva Insurance Limited (Aviva) refused to carry out further works following a claim made under their buildings insurance policy.

Where I've referred to Aviva, this also includes any actions and correspondence by agents acting on their behalf.

What happened

In 2019 Mr and Mrs D noticed cracking to their home so they contacted Aviva, their buildings insurer, for assistance. Aviva arranged for investigations to be carried out, and this included drainage surveys and arboriculturist surveys. The drainage surveys investigated both drain runs that Mr and Mrs D were responsible for and drain runs the local water authority were responsible for.

Ultimately it was initially concluded there was subsidence causing cracking and issues with the drains. Following further investigations in 2021, in relation to the drains that Mr and Mrs D were responsible for, it was concluded that the soakaway was exhausted and would need to be replaced but this wasn't covered under the policy.

Following a certificate of structural adequacy being provided which showed the property was stabilised, Mr and Mrs D arranged for a new soakaway to be excavated. Mr and Mrs D then asked Aviva to connect the existing pipework to the newly excavated soakaway, but Aviva said this wasn't something covered by the policy. Mr and Mrs D complained to Aviva as they said they were told this would be done by Aviva under the claim.

Aviva responded to the complaint and maintained the soakaway and associated pipework wasn't covered under the policy, but they recognised communication had been poor and unclear and offered £250 compensation.

As Mr and Mrs D remained unhappy, they approached the Financial Ombudsman Service.

One of our investigators looked into things but she didn't recommend Aviva do anything further. She said Mr and Mrs D had been told the soakaway replacement would be their responsibility and she was satisfied Aviva had fairly declined to connect the pipework as she said this wasn't covered by the policy.

The investigator also outlined that Aviva had confirmed all drain works required under the policy and claim had been carried out, and whilst she recognised there had been poor communication from Aviva surrounding what was covered, she thought the £250 compensation they'd already offered was fair.

Mr and Mrs D didn't agree and asked for a final decision from an ombudsman.

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.

Having done so, whilst I appreciate it will come as a disappointment to Mr and Mrs D, I've reached the same overall outcome as our investigator.

I don't intend on commenting on every event or communication that occurred during the history of the claim. Instead, I'll focus on what I think is key when reaching a final decision on what I consider is fair and reasonable in all the circumstances of the case. I don't mean this as a discourtesy to either party, instead it reflects the informal nature of this service and my role in it. But I'd like to reassure both parties that I've considered all the information they've provided when reaching my final decision.

The crux of this complaint is whether Aviva has acted fairly by refusing, under Mr and Mrs D's claim, to connect the newly excavated soakaway. Mr and Mrs D have also said they don't believe Aviva has carried out any other drain repairs which were determined as required and covered under the claim either.

Following the reporting of the cracking, both drainage, and arboriculture surveys were carried out. Having seen the arboriculture report, this seems to indicate that it was thought vegetation could be contributing to the subsidence. But in addition to this, a survey of all the drainage runs to Mr and Mrs D's property was carried out in December 2019. During this, it was identified that some of the drains were the responsibility of the local water authority, and some were Mr and Mrs D's responsibility.

In relation to the drains which were Mr and Mrs D's responsibility, for runs F, G and H, the survey said all three surveys were abandoned as they were unable to push past the blockages. So, the conclusions were that further surveys were required following excavation and replacement of the rest bend and a very short section of pipework. And a schedule of costs associated with this work to enable this was calculated.

Following this, as determined as required, an updated survey was completed in October 2021 by the drainage company. This indicated that they attended to survey runs F, G and H again as instructed by the previous survey. It was concluded there was no structural damage to the pipes, and the survey also said:

"We have found the pipework serving these drains is a combination of plastic, cast iron and corrugated land drainage which is blocked.

We believe the drains will discharge to soakaway which are exhausted and therefore any works to clean/replace the pipework will not resolve the issues.

To install new soakaways will require percolation testing at suitable points around the property and new pipework installing. This would be betterment and therefore, we believe, not covered by insurance."

Based on the updated survey, no structural damage was identified to the pipework which required repair (or replacement). Instead, it was concluded that the blockage was because the drains were unable to discharge due to the existing soakaway being exhausted. And it was concluded a new soakaway and pipework needed to be installed, which Aviva's agent said was betterment and not covered by the policy – I'll talk about the soakaway further below.

Mr and Mrs D say that aside from the new soakaway excavation, Aviva had also previously said repairs were required to the existing pipes too, but this hasn't been done by them. However, in contrast to this, Aviva's agents have confirmed that any insurance required works to the pipes have been completed and nothing is outstanding. Having considered all the evidence provided, on balance, I don't think this supports that agreed works are outstanding as Mr and Mrs D allege. I'll explain why.

In the initial report in December 2019, in relation to drain runs F, G and H, this said the survey had to be abandoned a short distance into the pipe due to the blockage. This concluded that a further survey was therefore required following excavation and replacement of the rest bend and a very short section of pipework, and this was costed for. The follow up survey then took place in October 2021. So, the fact this later survey took place indicates it's likely what was concluded as needed to enable this had been completed.

As outlined above, no structural issues were then identified in the second survey, and I can't see from this that any more works were said to be required – beyond Mr and Mrs D needing to replace the soakaway. So, following both surveys, it doesn't appear that structural damage was identified as an issue which required rectification, or any other works were required to the existing pipes, aside from the new soakaway excavation and installation.

Therefore, the only works required by Aviva were that outlined in the first survey - including excavation to enable a second survey and then that survey after – which went ahead in October 2021. And Aviva has shown the corresponding amount quoted in the December 2019 survey to do the works required to be able to carry out the follow up survey was paid to the drain agent. So, this would lead me to conclude that what was required in that first survey was completed as agreed, and nothing from that was outstanding.

Whilst Mr and Mrs D have disputed that anything had been done to the existing drains, more recently in communication with our investigator, Mr and Mrs D said they now remembered that someone did actually attend who dug a hole – although they say they recall this only being for drain G. But this timescale of when they attended ties in with what that initial survey recommended be done and the corresponding amount that was paid by Aviva. This also leads me to conclude on balance, what was required was carried out.

So, given Aviva's agents have confirmed all insurance works required to the existing drainage have been completed, Aviva has paid the agent what was costed for this to be carried out, there were no structural issues identified in the follow up drain survey, and Mr and Mrs D later recalled someone visiting to excavate, I'm unable to conclude, on balance, that there is anything else required, or that Aviva hasn't done what was required as alleged by Mr and Mrs D.

If Mr and Mrs D do have any other information to support there is anything specific which was agreed would be done which hasn't been or is outstanding, then they should submit that to Aviva for consideration. But based on what I've seen, on balance, I don't think that is the case.

Mr and Mrs D don't disagree that the new soakaway excavation itself is their responsibility. But Mr and Mrs D say they were also told that after excavating the new soakaway Aviva would connect the pipes to it. And they've referred to emails where pipe runs F, G and H can be 'repaired' under the insurance policy. However, I've also seen emails where, for example, Mr and Mrs D were told:

"Following review of the recent drainage report I write to inform you the investigations have established the soakaways to be exhausted and are in need of replacement.

Soakaways are not covered under your insurance policy as they become exhausted over time due to wear and tear therefore, your insurer will not be of financial assistance for the works required."

So, I think this implies that the new soakaway installation, not just the soakaway itself, is the responsibility of Mr and Mrs D. And I've not seen any firm evidence which specifically confirms the connection of pipes would be covered by Aviva. However, I appreciate the information at times hasn't been particularly clear for Mr and Mrs D, so I've gone on to consider what the policy actually covers. And having done so, I don't think Aviva has acted unfairly by declining to cover the connecting of the newly excavated soakaway, even if the messaging led Mr and Mrs D to believe otherwise. I'll explain why.

Mr and Mrs D's policy covers loss or damage caused to different parts of their home for various insured reasons, such as subsidence. But, redirecting and installing pipework to connect a newly excavated soakaway in a different area because the old soakaway is exhausted isn't something covered under the policy terms. So even if things haven't been as clear as they should've been, as the policy doesn't cover this, and Mr and Mrs D would always have needed to replace the soakaway because the previous one was exhausted, I don't think Aviva have acted unfairly by declining to cover the redirection and connection of the pipework even if at times it's been unclear whether they would or wouldn't.

However, as I say, things haven't been clearly explained to Mr and Mrs D, which ultimately has resulted in a loss of expectation if they were under the impression Aviva would be reconnecting the pipes. But Aviva has already offered £250 compensation for unclear and poor communication, and I think that's fair and reasonable in the circumstances for what happened, so I'm not going to direct them to increase this.

My final decision

Aviva Insurance Limited has already made an offer to pay £250 compensation to settle the complaint and I think this offer is fair in all the circumstances.

So, my decision is that Aviva Insurance Limited should pay the £250 compensation offered, if they haven't already done so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D and Mrs D to accept or reject my decision before 22 August 2024.

Callum Milne
Ombudsman