

The complaint

Miss R complains that Aviva Insurance Limited has treated her unfairly with delays in the handling of her flood claim. And its decision not to provide cover for all of the remedial work that has been undertaken is unreasonable.

What happened

Miss R notified Aviva of a flood incident in early July 2021. Following heavy rainfall her basement property was flooded with damage caused throughout.

The claim has been ongoing for a number of years with initial drying works starting in October 2021 before reinstatement work was undertaken. In May 2022 Miss R said that she didn't think the property had been correctly dried ahead of the reinstatement works and damp was evident in the property.

Miss R appointed her own surveyor due to disputes with Aviva and its assessments of the damage. In September 2023, further strip out and reinstatement works were undertaken on the property.

Aviva broadly agreed with the proposed works as set out by Miss R's surveyor and to cover the cost of the works based on this. But it disagreed with one aspect of the proposed drying and subsequent reinstatement. Miss R's surveyor felt the pointing on the lower-level brickwork should be raked out to assist the drying process before being repointed.

Aviva argues this is not something needed and due to the makeup of the internal walls with the property being a basement property, tanking would be applied over the brickwork. This negates the need for very dry conditions in the walls and has added costs to the repair works that could have been avoided.

Miss R complained about the claim decision and overall time this claim has taken to be settled and the works completed.

Our investigator looked at this complaint and felt there had been unreasonable delays and inconvenience added by Aviva with the handling of the claim. He said Aviva, if it hadn't already done so should cover the costs of the surveyor Miss R needed to appoint as they had demonstrated work was needed and this was related to the previous substandard repairs. They didn't think it was fair this cost was borne by Miss R.

Our investigator also said this had gone beyond the level of distress and inconvenience it was reasonable to expect and he recommended that Aviva make a payment of £1500 to Miss R to recognise this.

He did not agree that all of the work recommended by Miss R's surveyor was needed. He said he was not persuaded based on the reports provided that brick mortar needed to be raked out and repointed.

He said this as Miss R's surveyor had not highlighted why this was required when the

tanking membrane would be placed over the dry wall. Nor was there any indication this was needed for the structural soundness of the walls. As a result, he didn't ask Aviva to cover the cost of these repair works within the claim.

Aviva accepted the recommendation and to pay Miss R £1500 in recognition of the distress and inconvenience.

Miss R did not accept the outcome. She said the award for the distress and inconvenience was below where she feels it should be. She highlighted the number of times she needed to move between properties over the course of this claim and the impact this has had on her and her young daughter. She said being moved back into the property before it was dry has affected her daughter's health with her twice needing to be admitted to hospital with breathing difficulties and this can be attributed to the water left in the property walls when it was not previously dried before the reinstatement works took place. She felt the award should be increased based on this.

In response to the raking out of the brickwork mortar, Miss S argued her surveyor had recommended this because of the impact to the structure and because of the nature of the water which had saturated it. She also highlighted that after initial disputes with Aviva and its surveyor reports she needed to appoint a survey and trust their recommendation.

Miss R said she had asked for an arbitration proceeding to be put in place but this was declined by Aviva. It isn't fair she is penalised for following the direction of her surveyor. With the previous mistakes and mishandling of the claim, she has felt compelled to follow their advice when putting things right and feels it is only fair this is covered by Aviva.

Our investigator's opinion remained unchanged and the complaint was referred to decision at the request of Miss R.

I issued a provisional decision on this complaint on 8 November 2024. I said I was planning on upholding the complaint with an increase in the award for distress and inconvenience and a direction to Aviva to settle the part of this claim it had previously declined to cover. I've included what I said below:

What I've provisionally 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 am planning on upholding this complaint and will explain why.

The claim decision

The bulk of this claim and work has been settled and agreed and there is no need to determine whether there was an insured event at the heart of the issues which caused damage to Miss R's property, as this is not in dispute.

The question that needs to be determined is, has Aviva made a fair claim decision when declining to cover the cost of the brickwork mortar raking out and repointing. It has not disputed that the mortar was damaged with water damage as a result of the flood, but that it thinks the works completed on the recommendation of Miss R's surveyor were unnecessary.

Miss R's surveyor set out in their report dated 8 July 2023 that almost two years after the flood, Miss R's property was still damp and flood water was present in the structure of the building. Aviva has accepted this and that more needed to be done at this point to bring the

property back to the pre-loss state.

There was an initial recommendation in July 2023 to strip out the walls to ceiling level and expose the brickwork to allow this to dry out. It was once the brickwork was exposed, that a recommendation was made by Miss R's surveyor to go further with the following being noted about the mortar within:

"The soft lime mortar samples removed were pasty wet to the touch and noted to be considerably more absorbent than the solid brickwork..

While the brickwork surfaces were noted to be wet, the soft lime pointing was wet up to 20mm depths into the lower walls

Under the circumstances raking out the pointing was absolutely necessary in order to facilitate the drying out of the wall structures".

Aviva has had sight of these comments and its surveyor has disagreed. They have noted the moisture levels in the brickwork and mortar were in excess of where they should have been, but they do not feel the raking out and removal of the mortar was something required. And it cannot be certain it has resulted in the walls reaching a greater level of dryness, had this not happened.

I understand the concern Aviva has about the requirement for the raking out to be implemented. But I have to consider what proceeded this point and how and why Miss R felt this was the right thing to do. As I've said, two years after the flood, Miss R's property was still not dry. This was not because work had been delayed in being started, but works had been completed when the property was not dried as it should have been, resulting in further inconvenience and distress to Miss R.

Miss R had asked for assistance with Aviva to move the claim forward with arbitration when disputes over the work and the claim being settled continued. It did not agree to this and in response Miss R appointed her own surveyor. Aviva has broadly agreed with everything recommended by Miss R's surveyor with the exception of the pointing work – even when other recommendations have had some concerns raised over them.

While Aviva has explained it disagrees with the raking out and repointing of the brickwork, beyond a belief that this work was not necessary, it hasn't shown it was not needed. Nor has it shown this has not benefited the property and its drying, allowing Miss R to move forward with the claim and back into her property. In the absence of being able to prove this I don't think Miss R has acted unreasonably when following the advice of her surveyor with the work that has been completed.

The makeup of the walls in Miss R's property once fully reinstated will mean the tanking will provide a barrier between the brickwork and plaster. But the reoccurrence of damp after the property was previously handed back to Miss R after Aviva completed its initial works would reasonably call for more caution to be given with future works.

Miss R also has concerns about the flood water previously not being fully dried from the property and the impact this had on her daughter's health. All adding to it being reasonable for her to apply caution and listen to expert opinion on what needed to be done.

The surveyor Miss R appointed is a relevantly qualified expert, experienced in this field, and I don't think Miss R has been unreasonable when relying on the recommendations made to put things right. Aviva has not been able to demonstrate this work did not benefit the property and its drying and while it might not have been the course of action it would have

taken, its previous attempts to dry and repair the property did not prove to be successful.

With this in mind, I think it is unfair for Aviva to refuse to cover this element of the work completed when Miss R's property has been repaired.

Award for distress and inconvenience

Miss R has said she does not feel the award recommended and accepted by our investigator is fair and reasonable and appears to be out of line with this Services approach.

Distress and inconvenience awards are not intended to recognise all of the distress and inconvenience which has been experienced when something goes wrong. The unfortunate reality of an insurance claim, especially so with a claim of this nature, is that there will be a lot of inconvenience and distress. And this will be the case even if the business involved does everything they need to when settling the claim.

Our awards are made to recognise the distress and inconvenience which goes beyond what we might expect, so what was unreasonable and caused as a result of errors with the handling of the claim.

Miss R has highlighted the timeline of the events and time spent in temporary accommodation. Had the property been dried and reinstated correctly, the first temporary accommodation should have been the last, with Miss R moving home in May 2022. However, Miss R and her daughter needed to move a further six times after this following the need to move out of the property again in May 2023. It is fair to say this could have been avoided and has added significant inconvenience and stress for an extended period of time.

Miss R has also talked about concerns over her daughter's health and the impact of living in the property for a year between May 2022 and May 2023. It is not disputed the property was still damp in May 2023 with residual flood water sitting in the walls of the property. Miss R accepts it has not been proven with medical records that her daughters breathing problems and medical episodes are the result of this, but it is easy to understand the fear and distress that this could be the cause.

I am satisfied the mistakes made by Aviva with the handling of this claim have caused sustained distress and have potentially affected the health of Miss R's daughter. There has been sustained disruption to their daily lives while this claim has been settled and it is right this level of distress and inconvenience is recognised.

Taking everything into account, I plan on directing Aviva to pay £2500 for the distress and inconvenience of this complaint.

Putting things right

I plan on asking Aviva to do the following to put things right on this complaint:

On receipt of invoice for works completed, it should cover the cost of the raking out and repointing of the brickwork walls for the work which has been disputed. This payment should include 8% simple interest from date of receipt until date of payment.

Pay Miss R £2500 for the distress and inconvenience added as a result of this claim and delays caused when the initial works did not put right Miss R's property and return it to the pre loss condition.

Miss R responded to accept my provisional decision. Aviva acknowledged the decision but

failed to provide a response by the deadline provided.

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've decided to uphold this complaint, inline with the provisional decision set out above.

With no dispute or comments from either side in response to the provisional decision, I see no reason to depart from what was said. And I uphold Miss R's complaint for the reasons set out previously.

Putting things right

Aviva should do the following to put things right on this complaint:

On receipt of invoice for the works completed, it should cover the cost of the raking out and repointing of the brickwork walls for the work which has been disputed. This payment should include 8% simple interest from date of receipt until date of payment.

Pay Miss R £2500 for the distress and inconvenience added as a result of this claim and delays caused when the initial works did not put right Miss R's property and return it to the pre loss condition.

My final decision

For the reasons I've set out above, I uphold Miss R's complaint against Aviva Insurance Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss R to accept or reject my decision before 23 December 2024.

Thomas Brissenden
Ombudsman