

The complaint

Mr B and Mrs B complain that Aviva Insurance Limited failed to identify that there was leaking water from the underground drains in 2020 and 2021 which caused further delay and inconvenience in their claim being resolved.

What happened

Mr B and Mrs B held a buildings and contents insurance policy with Aviva and in 2020 they made a claim for subsidence.

Aviva appointed a contractor to manage the claim and investigate the leaking drains, but they were slow and didn't investigate fully, and in early 2022 Aviva replaced the contractor.

In late 2021 Mr B and Mrs B complained about the poor service and delays of the first contractor, and in December 2021 Aviva responded acknowledging this and offered compensation.

In March 2022 Aviva issued a further final response increasing their offer by a further £300 for the contractors' failed appointments and poor communication, increasing the overall compensation to £1000 to recognise the additional delays caused by changing contractors and stress and inconvenience.

After the new contractors were appointed, they determined together with the local water authority that there were significant defects to the drains and sewers in the immediate vicinity of the property which the first contractor had failed to spot in their investigations. They also found that the property was still subsiding. This repair work was then completed but it wasn't until then that the full extent of the damage was evident. In August 2023 after rectification work was completed, Mr B and Mrs B complained that the first contractor's failure to identify these issues had caused significant delay of around 2 years, continuing subsidence with further damage and additional distress and inconvenience.

On 15 August 2023 Aviva issued a final response, saying that there had been several previous complaints for which £1000 had already been offered. They didn't think that the failings of the previous contractor had added any additional delay to the repairs by the second contractor, but they were willing to offer a further £150 for the recent stress and inconvenience.

Mr B and Mrs B weren't happy with this and brought their complaint to us.

One of our investigators looked into Mr B and Mrs B's complaint and she thought that Aviva should pay £500 compensation.

Mr B and Mrs B disagreed with our investigators view, and so the case has come to me to review.

I issued a provisional decision on the complaint. My provisional findings were as follows:

For clarity, I'm only considering the issues dealt with in the 15 August 2023 final response. Mr B and Mrs B have made several previous complaints outlined above and received a final response letter in March 2022. They were given referral rights in that letter, advising them that if they were unhappy with this response, they needed to contact our service within six months. I understand that they didn't do so. They then raised this further complaint in 2023 after the second contractor discovered the cause and extent of the damage and corrected it.

So this complaint is looking at the impact of the actions of the first contractor between 2020 – 2022 but with the lens of what we now know, which is that they failed to properly investigate and identify the defects in the drains, resulting in the subsidence continuing, and internal repair work that was undertaken having to be re-done.

It's clear that some of the investigations that the first contractor undertook were appropriate and would have taken time whoever undertook them. However, it seems that they weren't thorough enough, having been abandoned when they had difficulty with the CCTV surveys and with the excavations not being extensive enough to identify the defective drains. These defects were later identified after the new contractor started work in March 2022 in conjunction with the local water authority and further repair work was undertaken.

So, I've considered what additional delay and inconvenience these failures by the first contractor caused – over and above the delay already recognised in March 2022 - and what is appropriate compensation for these.

As part of that I've looked at how long it then took the second contractor to put things right and thought about what difference it would have made if these issues had been properly identified by the first contractor. The drain repairs would still have taken some time. And there would also still have been a level of inconvenience to Mr B and Mrs B during that period of rectification, which would have included physical disruption to the property, correspondence with the insurer, and site visits. This is a normal level of inconvenience with any buildings insurance claim and arises out of the cause of the claim itself. And so I can't award any compensation for the "normal level" of inconvenience, only for the additional distress and inconvenience arising out of the failures of the first contractor.

I can see that if the drain defects had been identified earlier in 2021 and had been repaired, the movement may not have continued, and so rectification work would have been completed, meaning that Mr B and Mrs B would not have suffered a further 18 months of subsidence, their new kitchen would not have had to be removed and reinstated again and there may not have been further external works which are still ongoing.

I'm pleased to see that Aviva's new contractors are dealing with all the issues, and that the work is being completed to Mr B and Mrs B's satisfaction, but I do think that the evidence indicates that the claim would have been resolved much sooner, and with a lot less disruption and duplication of work if the first contractor had identified the issues. As such, I consider that an award of a further £1000 is more appropriate for the serious disruption over a longer period than was necessary following Aviva's contractors failings.

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.

Aviva have accepted by provisional findings, and so have Mr B and Mrs B. In their response to the provisional decision, Mr B and Mrs B have said that although they accept the decision, they don't feel it fully reflects the distress and inconveniences they have experienced. I can understand that this has been a very difficult time for them, but I would like to reassure them

that I have considered all of their submissions when coming to a fair and reasonable decision. They have also pointed out that they haven't cashed either the £150 or the £350 compensation cheques issued to them and have asked that I note that these need reissuing, so I have included this in the section below for Aviva to deal with.

Putting things right

In order to put things right Aviva should pay Mr B and Mrs B a further £1000 for distress and inconvenience.

Aviva previously issued two cheques of £150 and £350 for distress and inconvenience which Mr B and Mrs B say they have not cashed. Aviva will need to check this before issuing any payment and re issue those payments as appropriate in their settlement.

My final decision

My decision is that I'm upholding Mr B and Mrs B's complaint and directing Aviva Insurance Limited to put things right as outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B and Mrs B to accept or reject my decision before 31 December 2024.

Joanne Ward
Ombudsman