

## **The complaint**

Mrs Q complains Aviva Insurance Limited has unfairly declined a claim she's made on her buildings insurance for the reimbursement of costs she incurred in underpinning her property following suspected subsidence.

## **What happened**

Part of this complaint relates to the actions of Aviva's agents for which Aviva has accepted responsibility. References I make to Aviva's actions include those of its agents.

The background to this complaint is well known to the parties and has been comprehensively detailed by our Investigator, so I've included a summary here.

- Mrs Q's property was insured under a buildings insurance policy underwritten by Aviva. Mrs Q identified some cracking to the property and arranged an inspection by an engineer in September 2022. This identified a small degree of settlement and recommended some remedial works to address this with a likely cost of around £1,750 plus VAT. Mrs Q explained she didn't take any action following this recommendation.
- Sometime later in June 2023, the property was on the market to be sold. A potential purchaser had a survey undertaken. Mrs Q says she was told verbally the survey highlighted possible subsidence and recommended underpinning.
- She reported the verbal findings of the survey to Aviva and asked it to send someone to investigate but Aviva said it didn't do this as it was Mrs Q's responsibility to prove her claim. Instead, it asked Mrs Q to send photos of the damage, which she did. Having considered the photos, Aviva didn't think the cracks were consistent with subsidence.
- Mrs Q says she asked further times for Aviva to send someone to investigate but it didn't have anyone available. She contacted builders to inspect the property and she says they concluded it was subsidence damage, in line with what the purchaser's surveyor had said verbally. Mrs Q spoke to Aviva and let it know this.
- Mrs Q says Aviva told her she should proceed with underpinning so she had the work undertaken at a cost of around £20,000. Aviva disagrees with this and says it didn't tell Mrs Q to proceed with the work but to supply copies of the various reports for its surveyors to consider. So Aviva declined to reimburse the cost of the work.
- Mrs Q complained to Aviva and it said she had prejudiced the claim and denied it the opportunity to inspect the damage. It also said Mrs Q's engineer who inspected the property in 2022 hadn't thought it would be necessary to undertake underpinning. So, it maintained the decline of the claim for reimbursement of costs. Aviva did offer to reimburse Mrs Q the cost of the repairs recommended by her engineer being £1,750, less the policy excess of £1,000 leaving a net payment of £750 to Mrs Q.

- So, Mrs Q raised a complaint with this Service. Our Investigator considered the evidence and concluded Aviva didn't need to reimburse Mrs Q with the cost of the underpinning but he did recommend it should pay Mrs Q £200 due to the poor service it provided her with.
- After our Investigator had issued his findings, Mrs Q provided a copy of the purchaser's survey and a structural inspection report from a structural engineer following an inspection sometime after the work had been completed, in September 2024. But this information didn't change the Investigator's mind.
- Aviva accepted the recommendations but Mrs Q didn't and asked an Ombudsman to make a decision.
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### **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.

When a policyholder makes a claim on a policy, the onus is on them to show the claim is covered under the policy terms. I'll be keeping this principle in mind when considering this complaint together with what I consider to be fair and reasonable.

It's usual for an insurer to want to assess damage before accepting a claim. This is so it can ascertain the cause of the damage and whether it's covered under the policy terms, the extent of the work required to address it and the costs of doing so.

Where work goes ahead before this happens, the insurer is denied the opportunity to do this. Additionally, it's compelled to pay the higher market rates of a consumer's private contractor rather than the competitive pricing it would normally obtain from its network of contractors.

With this in mind, in my view, what lies at the heart of this complaint is Mrs Q's belief Aviva told her she could go ahead with the underpinning of the property. Aviva said it didn't and that was the key reason for the decline of the claim. So, I've considered the evidence about this.

### *The phone call and communications*

- Mrs Q says someone at Aviva told her to proceed with underpinning the property during a phone call. Aviva has provided a copy of the phone call in question and I have listened to this very carefully.
- Having done so, I don't agree Mrs Q was told to go ahead with the underpinning. Instead, she was asked to provide the evidence she had discussed on the call – the survey from the prospective buyer and the builders' opinions, all confirming the cause of damage was subsidence - for Aviva's surveyors to assess.
- Aviva went on to say *if* the surveyor's agreed the evidence showed there was a claim and it was accepted by Aviva, then the cost of the work would be covered. Mrs Q confirmed she would send in the evidence. I'm satisfied Aviva was clear in its requirements and Mrs Q indicated she understood these.
- But in mid-September 2023, Mrs Q decided to push ahead with the work and instructed her builder to do so as she was keen to get the property back on the

market. Towards the end of September 2023, Mrs Q supplied Aviva with an estimate from her builders but this wasn't the information Aviva had requested. And by this time the work was already underway.

- Mrs Q then supplied a copy of the original report from September 2022, which again wasn't what Aviva had requested. Aviva asked Mrs Q to hold off from undertaking further work but the work had already been completed at this point.
- Having considered the correspondence on this issue, I'm satisfied Aviva consistently explained what evidence it required Mrs Q to provide and was clear it hadn't provided authorisation for the work to go ahead.
- For the reasons I've explained above, I'm not satisfied it would be fair or reasonable to direct Aviva to pay the cost of the underpinning to Mrs Q's property.

#### *The reports received subsequently*

- The purchaser's survey does indicate some movement at the property and that underpinning would be a possible option to address this. But goes on to say mitigation work on nearby trees followed by a year of monitoring would be the best way to ascertain if underpinning was actually required. I've seen no evidence to show this recommendation was followed before underpinning work was undertaken.
- The report from the structural engineer details the current state of the property at that time and doesn't seek to comment on the cause of the damage or the work required when the claim was made.
- In my view, neither of these reports provide sufficient information about or insight into the cause of the damage and how it should be dealt with to challenge the key reason why Aviva declined the claim – that it was denied the opportunity to inspect the damage and so its position was prejudiced.
- So, they haven't changed my mind.

#### *Could Aviva have done more before its initial decision it wasn't subsidence?*

- Our Investigator said Aviva should have done more to consider the claim before saying it wasn't subsidence and said it should pay Mrs Q £200 to reflect this. Aviva accepted this recommendation.
- It seems from its claim notes, this initial decline decision was based on very limited information including just a small number of photos and I would have expected Aviva to have considered further evidence before declining the claim at this stage. I'm in agreement with the Investigator that Aviva should pay Mrs Q £200 for the impact of this.

#### **Putting things right**

- For the reasons I've explained, as Aviva was denied the opportunity to properly assess the claim before the underpinning work was undertaken, I don't consider it would be fair or reasonable for me to direct it to cover the cost Mrs Q incurred in having this work undertaken.
- Aviva offered to pay Mrs Q the sum of £1,750 less the policy excess. This was

seemingly based on the remedial work estimate provided in the report from Mrs Q's engineer in 2022. I obviously can't say with certainty what would have happened had Mrs Q made a claim at that stage and the work been undertaken. But given this was the recommendation of an expert instructed by her at the time the damage was first noticed, it seems a fair and reasonable figure for Aviva to offer now in the circumstances described above.

### **My final decision**

Aviva Insurance Limited has already made an offer to pay Mrs Q £1,750 less the policy excess 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 Mrs Q this amount if it hasn't done so already together with £200 for the distress and inconvenience it caused her.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs Q to accept or reject my decision before 4 February 2025.

Paul Phillips  
**Ombudsman**