

The complaint

Mr A and Mrs T complain about Aviva Insurance Limited's ("Aviva") handling of their claim under their home insurance policy.

Mr A has acted as the main representative during the claim and complaint process. So, for ease of reference, I will refer to any actions taken, or comments made, by either Mr A or Mrs T as "Mr A" throughout the decision.

What happened

The background to this complaint is well known to the parties, so I won't go into too much detail but will summarise the key points. Mr A made a claim to Aviva after discovering an escape of water in his kitchen and arranging for his home emergency provider to attend to stop the leak. Aviva's contractor attended and prepared a schedule of works which included strip out work, drying and reinstatement work. Early into the claim, Aviva's contractor noticed pre-existing damage and Aviva then decided to carry out repairs but offer a cash settlement for the decoration works. During the strip out work, Aviva's contractor identified further pre-existing damage, additional leaks, and areas showing rot and mould.

Aviva then decided to offer a cash settlement for the reinstatement work they decided was attributable to the escape of water claim Mr A reported. They said this was on the basis their contractor wouldn't be able to carry out the insured work without the uninsured issues being resolved first. Mr A then complained about delays caused by Aviva, and their decision to offer a cash settlement after originally agreeing to carry out repairs. He also complained about the cash settlement offered as he didn't believe it was sufficient, and he also believed additional damage had been caused during the period there were delays.

Aviva responded and accepted there had been several delays and offered £250 compensation. In relation to the settlement amount offered, Aviva said they'd spoken with an expert who would be contacting Mr A to arrange a site visit to compile a scope of works in order to calculate a settlement amount. The expert then attended and carried out an inspection and maintained there was pre-existing damage due to wear and tear and lack of maintenance, which would've been evident to Mr A, and agreed with the decision to offer a cash settlement as the insured work couldn't be carried out without addressing the uninsured issues. The expert determined there were additional areas that Aviva would be responsible for - and increased the cash settlement offer. Mr A declined the offer as he said it was significantly less than the quote he'd received from a contractor.

Our investigator looked into things for Mr A and Mrs T. She agreed there had been claim delays and thought the £250 offered was fair. She also thought Aviva's decision to offer a cash settlement, and the amount, was fair. Mr A and Mrs T disagreed so the matter has come to me for a decision.

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, I've decided Aviva's offer is a fair way to resolve matters. I understand Mr A and Mrs T will be disappointed by this but I'll explain why I have made this decision.

My role requires me to say how a complaint should be settled quickly and with minimal formality and so I'll focus on what I consider to be the crux of the complaint and the main areas of dispute. I think it's important to add, I won't be commenting on every event during the claim and complaint process, instead I have taken a broad approach to the overall service provided. I can see Aviva issued their final response on 17 July 2024 but it's clear there was further communication between the parties around the cash settlement. Given this forms part of the complaint addressed in Aviva's response, I think it's fair in the circumstances for me to consider the revised cash settlement as part of this complaint also.

Delay

The key facts about this part of the complaint aren't in dispute. Aviva accept they got things wrong as they didn't progress matters for a period of around three months. The only issue I have to decide is whether their offer of £250 is fair and reasonable in the circumstances.

I think it's right that Aviva should compensate Mr A and Mrs T for the upset, frustration and inconvenience caused. To help decide what a fair and reasonable level of compensation should be, I've looked at the errors by Aviva and the impact it has had.

Aviva explained to Mr A they would be arranging repairs, but I can't see any action was taken to arrange the strip out work – which would've been the next stage of the claim. Around a month later, Mr A chased to find out what was happening, and it wasn't until around two months later that Aviva then emailed Mr A with the date their contractor would be attending. It's clear Mr A was frustrated at the delay and was inconvenienced in having to chase. And this was during a period where Mr A was expecting to hear back from Aviva to let him know the next steps. I think, in the circumstances of this case, the £250 compensation offered is reasonable as, beyond the impact of the delay, I can't see any wider impact on Mr A.

The claim and cash settlement offer

The policy terms and conditions do allow Aviva to offer a cash settlement. But I understand Mr A's concern here is that Aviva changed their stance and offered this after originally agreeing to carry out repairs. So, I've considered whether Aviva acted fairly in doing so.

During the first inspection, it's clear Aviva's contractor identified areas of pre-existing damage and Aviva then decided to offer a cash settlement for the decoration works – but to carry out the reinstatement. It was only later during the strip out works that the contractor then identified further areas of damage which they attributed to wear and tear and lack of maintenance – which I've seen are excluded under Mr A's policy - and a decision was made to offer a cash settlement for the repairs.

Once an insurer has commenced repairs, we consider that they've entered into a repair contract with the policyholder – in essence, an agreement has been reached where the claim will be settled by repairing the damage. That's important because if things go wrong or if something unexpected arises – for example, the repair is much more expensive than the insurer first realised – we generally say the insurer can't turn back the clock and seek to settle the claim on another basis e.g. by paying cash. So I've looked to see whether Aviva had started any repairs.

The further issues were identified during the strip out work, so I can't see any building repairs had been started. I've seen the report from the contractors and an expert who attended later, and they list the significant areas of pre-existing damage – and this is supported by photos. Looking more closely at the circumstances of this particular case, given the significant damage which was identified during the strip out work, and Aviva's concern that it wouldn't be practical or possible to carry out the insured work without addressing the uninsured issues, I think Aviva's decision to offer a cash settlement was reasonable in the circumstances.

I will add, the information shows Aviva's contractors did identify the presence of some pre-existing issues prior to strip out works – and this led to the decision to offer a cash settlement for the decoration works. But it's clear the full extent of the pre-existing damage didn't become apparent until the strip out works started. The information from Aviva shows, more specifically, the extent to which any insured work would be impacted by the uninsured issues and how attempting any insured works would likely prevent a lasting and effective repair from taking place. So, I acknowledge the frustration to Mr A in Aviva changing their settlement decision, but taking into account all the information I've seen, I can't say their decision to offer a cash settlement is unreasonable in the circumstances.

The next point I've considered, and on which there's a dispute, is the amount of the cash settlement. Aviva originally offered a cash settlement of £1,424.08 – which wasn't accepted by Mr A. I can see Mr A obtained his own quote, and this was for £4,968 + VAT. The information shows Aviva recognised there might've been additional damage caused during the three months delay, so they decided to revisit the cash settlement by arranging a further inspection. I think this was a fair thing to do in the circumstances as it's reasonable to expect, given the circumstances of Mr A's claim, there might've been additional areas of damage not considered during the original scope of works. A further visit was arranged, and a revised scope of work was drawn up by an expert – and this identified additional areas of damage.

I think the additional scope that has been factored into the revised scope of works is reasonable in the circumstances. This led to an increased cash settlement offer of £2,600.93 – but after deducting an amount already paid to Mr A, it brought the total to £2,488.63. And the information shows Aviva based this on a quote provided by a local supplier. I acknowledge this amount falls short of the quote received by Mr A, but I can't say Aviva's offer is unfair.

Firstly, Mr A's quote contains scope for carrying out uninsured works, which Aviva's doesn't. For example, Mr A's quote includes the supply and fitting of two worktops – which Aviva had already identified wouldn't be covered under the claim due to the presence of pre-existing damage. Secondly, the scope set out in Mr A's quote isn't as detailed as Aviva's scope of works, but I can't say Aviva's costings are unreasonable here based on the comparisons I'm able to draw between the two scopes. For example, Mr A's quote includes a costing of £30 per m2 to supply the new floor tiles, and Aviva have matched this.

Given that Aviva's contractor became aware of pre-existing damage during the strip out work, I've considered whether Mr A ought reasonably to have been aware of this. And I think there were visible signs of a problem which Mr A ought reasonably to have been aware of. During the original site visit it was identified there were areas of pre-existing damage. While this was known, it's clear the full extent of it wasn't discovered until the strip out work. But it's clear there were signs of a problem which Mr A ought to have been aware of. For example, the expert's report said the kitchen was showing signs of wear and tear with a lack of ongoing maintenance.

The report set out a number of issues identified by the expert, this included, cracked mortar which would allow rainwater to enter, plaster was blown with cracking in several areas, and the worktops had sunk and the edges were blown from prolonged spillage and the rear of a worktop was rotten and allowing cutlery and spillage of water to seep down the back of the units and had caused damp issues below the worktops and behind the kitchen units. The expert said, this had clearly been ongoing for some time and was the cause of the mould build up to this wall. To a large extent, there are photos which support Aviva's concerns about pre-existing damage being evident, so I am persuaded Mr A ought reasonably to have been aware there was a problem.

I can see Mr A has provided a report from his home emergency policy provider who attended to stop the leak. I have considered this, but it doesn't persuade me there wasn't pre-existing damage before the leak. The photos in this report show the unit where the leaking stopcock was located and not the same areas which Aviva have taken photos of, and which show the pre-existing issues.

I acknowledge Mr A believes the delay led to the condition of the kitchen becoming worse, but I've seen the report noting the significant damage and the photos which support this. I can see Aviva referred the matter to their technical team who reviewed the information, and their opinion was that the original leak, which forms part of this claim, wasn't significant enough to have caused the amount of mould growth and damage seen at the property.

I'm not an expert in such matters, so in the circumstances I'll consider any expert information and determine what I believe, more likely than not, is the case here. The photos do support Aviva's comments about the significant mould growth and it's clear this is present across different areas of the kitchen. Given both the presence of the mould, and the extent of it, I'm more persuaded this was down to a pre-existing issue rather than it being caused during the three-month delay. I think it's important to add, I haven't seen any evidence which suggests the mould would likely have arisen during the three-month delay.

So, taking into account all the information, I don't think it was unfair in the circumstances for Aviva to change their settlement terms to a cash settlement. And, I haven't seen any evidence which suggests the revised scope drawn up by Aviva doesn't factor in all insured work, or that the amount of the revised cash settlement is unfair.

My final decision

Aviva Insurance Limited have already offered a revised cash settlement for the repairs and offered 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 revised cash settlement and £250 to Mr A and Mrs T, if they haven't done so already.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A and Mrs T to accept or reject my decision before 25 April 2025.

Paviter Dhaddy
Ombudsman