

## **The complaint**

G has complained that Aviva Insurance Limited unfairly declined its claim after windows shattered in a flat it owned.

## **What happened**

G is a limited company which owns a leasehold flat. Aviva provide buildings insurance to the freeholder of the development. G may claim on the policy, as a party for whose benefit the policy was taken out. In summer 2023, two glass panes in the flat shattered. So G made a claim.

Aviva investigated. Their glass specialist said the damage was due to nickel sulphite inclusion (NSI), meaning the glass was defective. The directors of G challenged this conclusion. So Aviva instructed a second specialist, who reached the same conclusion.

Aviva declined the claim, on the basis that the damage resulting from hidden defects or faulty materials was excluded from the cover. G complained, but Aviva didn't change their conclusion. So G brought the complaint to the Financial Ombudsman Service.

Our investigator reviewed the complaint and concluded Aviva didn't need to do any more to resolve it. She said Aviva had acted fairly when they relied on the exceptions in the policy.

G didn't agree with the investigator's view. So the matter's been passed to me to make 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 that, I'm not upholding G's complaint. I'll explain why.

It's not the role of the Financial Ombudsman Service to decide claims. We expect insurers to deal with claims fairly, in line with the policy terms and having regard to the evidence.

The starting point for any complaint is what the policy terms say. In this case, the policy purchased by the freeholder was an "all risks" policy. But that doesn't mean that all damage is covered, irrespective of the cause. Cover is excluded in a number of situations – referred to in the 2022/23 policy as "exceptions" and in the 2023/24 policy as "exclusions".

As our investigator identified, two exceptions are relevant here, because the two windows broke either side of the policy renewal date. The relevant part of the 2022/23 policy says:

*"We will not provide cover for*

*(1) Damage to the Property Insured caused by or consisting of*

*(a)-(c)....*

*(d) faulty or defective design or materials used in its construction*

*..."*

And the 2023/24 policy excludes:

*“Damage caused by or consisting of*

- a) inherent vice latent defect gradual deterioration wear and tear or its own faulty or defective design or materials but this shall not exclude subsequent Damage which itself results from a cause not otherwise excluded....”*

Aviva say these exclusions apply to G’s claim. But they only did so after they received a report from an expert confirming this was the case. And, when G challenged that report, they instructed a second expert – who reached the same conclusion.

I can’t say what caused the glass to shatter. But I think it was reasonable for Aviva to rely on the reports of two experts. And, as both experts concluded the glass was defective, I think it was fair for Aviva to decline the claim based on the policy exception/exclusion.

I know G doesn’t agree with that conclusion and have suggested Aviva failed to consider alternative causes of the damage, which would have fallen within the cover. I’ve considered these views. But I don’t think it’s reasonable for me to say, having received the experts’ reports, Aviva should have disregarded them and looked further for another potential cause.

G has also said that Aviva’s decision to decline the claims is inconsistent with how other flat owners were dealt with when their windows shattered. It’s not completely clear what the directors of G are referring to here, as they’ve mentioned both Aviva, and a company I’ll call M.

I don’t think there’s any evidence that others claiming on Aviva’s policies have been treated more favourably than G. Aviva have provided copies of a number of letters they sent to the broker of the policy. These refer to claim from multiple flat owners and show other claims were also rejected following expert reports showing the glass was defective.

I understand that M was, in fact, the developer which built the flats. It’s not clear if they replaced shattered glass under a warranty, as a gesture of goodwill, or on some other basis. But, in any case, the decision made by a third party to deal with the issue differently doesn’t mean Aviva should change their approach. It’s for each business to decide how to deal with the matter.

Finally, G has complained about the way the freeholder – which bought the policy – has dealt with the issue of the glass. That’s not something I can comment on because it doesn’t fall within the jurisdiction of the Financial Ombudsman Service.

If G have concerns about the freeholder, it will need to raise that matter with them. I can only consider what Aviva have done. And, as I’ve explained, I’m satisfied they don’t need to do any more to resolve G’s complaint.

### **My final decision**

For the reasons I’ve explained, I’m not upholding G’s complaint about Aviva Insurance Limited.

Under the rules of the Financial Ombudsman Service, I’m required to ask G to accept or reject my decision before 16 July 2025.

Helen Stacey  
**Ombudsman**