

The complaint

Mr C complains that Aviva Insurance Limited declined a claim on his commercial property insurance.

What happened

Mr C owns the freehold of a building which is divided into flats. He made a claim on his policy after damage was caused to the property in December 2023. Mr C said there was a storm which resulted in a large amount of water getting into the building and causing damage in two areas –

- Damage to the inner roof of the building, which dislodged slates on a small portion of the roof and allowed water to enter and damage the ceiling below, above the common parts staircase.
- An inner gully which took rainwater away from the roof above one of the flats became blocked and the water overflowed, damaging the ceiling and the flat below.

Aviva arranged an inspection and after considering the report from this, declined the claim saying the damage was long-term and due to a lack of maintenance.

Mr C disagreed and referred the complaint to this Service. Our investigator said:

- There had been a storm but he didn't think this was the main cause of the roof leaking, so it was reasonable to decline the claim for this.
- Aviva had told Mr C it would now pay for internal damage caused by the blocked gully once he had dealt with the external repairs, and this was a fair offer.

After considering further comments from Mr C, the investigator said all the damage relating to the blocked gully should be covered. He recommended that – subject to Mr C providing evidence of the repair costs – Aviva cover both the external and internal repairs relating to this. Mr C said this was fair and accepted the investigator's recommendation, but Aviva has not replied. So I need 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.

The relevant industry rules and guidance say insurers must deal with claims promptly and fairly, and not unreasonably reject a claim. They should settle claims promptly once settlement terms are agreed.

The policy includes cover for storm damage. Our investigator explained that weather reports indicate there were storm conditions at the time, and Aviva hasn't disputed this or provided any contrary evidence.

Aviva arranged an inspection of the damage and the report indicated the roof was in need of attention and the tiles had been in poor condition. The report concluded this was what had led to the damage rather than the storm. Mr C hasn't provided expert evidence that confirms the storm was the main cause of the roof leaking, and has accepted the investigator's view on this.

The issue I need to determine is whether the storm was the main cause of the damage relating to the blocked gully.

After initially declining this part of the claim, Aviva later offered to cover the internal damage. I don't think that was a fair offer and think the external repairs should also be covered, for the following reasons:

- Mr C has explained that this damage was only discovered after investigations took place. A CCTV inspection revealed that a stone had fallen into the gully at the point where it emptied into a hopper on the outside wall. There was debris such as moss and sticks behind it, which caused the internal gully to overflow.
- Dealing with this had involved putting up scaffolding, using a camera to identify the problem and work to open up the roof to allow access to the gully; it was only possible to access the internal blockage after removing a section of roof tiles. Aviva's expert said they had not been able to inspect the gully.
- On balance, it's more likely it was the storm that caused the stone to fall into the gully and the debris to become lodged behind it, rather than the condition of the roof. Mr C wouldn't have been able to foresee the gully becoming blocked and it's unlikely he could have prevented this happening through routine maintenance.

In the circumstances, it would be fair for Aviva to cover the costs for both the external and internal repairs relating to this damage. Mr C has provided evidence of the costs but some of this may have related to the more general roof repair. He will need to provide any further invoices he may have in relation to work that has already been carried out and clarify with Aviva which costs relate to the damage caused by the blocked gully.

My final decision

I uphold the complaint and direct Aviva Insurance Limited to

- pay the claim for the external and internal repair costs relating to the blocked gully (subject to Mr C providing evidence of the costs he's incurred) subject to any policy limits and excess; and
- pay interest on any costs Mr C has already paid, from the date he paid them to the date of settlement at 8% a year simple.

If Aviva Insurance Limited considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr C how much it's taken off. It should also give Mr C a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 28 May 2025.

Peter Whiteley
Ombudsman