

The complaint

Ms B complains about Aviva Insurance Limited (“Aviva”) and the service she’s received after she made a claim on her home insurance policy.

What happened

The claim and complaint circumstances are well known to both parties. So, I don’t intend to list them chronologically in detail. But to summarise, Ms B held a home insurance policy underwritten by Aviva when her cellar was damaged by an ingress of water. So, she contacted Aviva to make a claim in early February 2024.

Aviva appointed a surveyor, who I’ll refer to as C, to validate Ms B’s claim. And initially, C chose to decline the claim stating there wasn’t an insured event. But less than a month later, Aviva overturned this decision and accepted the claim, as a gesture of good will to recognise Ms B’s situation and her vulnerabilities.

Aviva arranged for C to inspect the property, and the damage caused. Having done so, C provided a report explaining the ingress of water had been caused by defective tanking, that had likely been happening gradually over a period of time. So, Aviva explained to Ms B they wouldn’t cover the costs of the tanking repairs, or the installation of a sump pump. But they agreed to cover the costs of cleaning, sanitising and drying the cellar after the tanking had been repaired separately, as well as reinstatement work following this and her contents claim.

Ms B was unhappy about this, and the service she had received. So, she raised several complaints about different issues. These included, and are not limited to, Ms B’s unhappiness with Aviva’s decision not to cover the costs of the tanking repairs. And, how refusing to do this, or complete the relevant drying work, had caused further damage to her property. Ms B also complained about the handling of her contents claim, including having contents returned to her when needed, and the support she received regarding her Beyond Economical Repair (“BER”) list. To recognise her concerns, Ms B wanted Aviva to cover the costs of all the repairs required to her cellar, her BER list to be confirmed and settled, and compensation of around £1,000 to recognise the distress and inconvenience she’d been caused.

Aviva responded to Ms B’s complaints and didn’t uphold them, over two responses. In summary, Aviva set out why they thought they had acted more than fairly by agreeing to cover aspects of Ms B’s claim as a gesture of good will. And they felt they had made it clear to Ms B that she would need to arrange and pay for the tanking repairs before drying and reinstatement could begin. They also set out why they thought they had acted fairly regarding the provision of Ms B’s contents and the processing of that aspect of the claim. So, they didn’t offer to do anything more. Ms B remained unhappy with this response, so she referred her complaint to us.

Our investigator looked into the complaint and upheld it in part, over the course of two outcomes. Both parties have had sight of these and so, I don’t intend to recount them in detail. But to summarise, our investigator set out why they thought Aviva had acted fairly

when not agreeing to cover the costs of the tanking repairs. And, why they thought it was fair for Aviva to delay installing dehumidifiers until this work was done. They also explained why they thought Aviva had returned Ms B's property when requested on time, and why Ms B's claim hadn't qualified for the "Build Back Better" provision contained within the policy.

But our investigator did think Aviva had failed to appropriately tailor their communication to recognise Ms B's needs and vulnerabilities. And that this had led to issues with the agreement of a BER list. So, to recognise this, they recommended Aviva prioritise the agreement and completion of the BER list. And pay Ms B £200 compensation to recognise the unnecessary inconvenience she'd been caused.

Aviva accepted this recommendation. But Ms B didn't, providing several comments setting out why. These included, and are not limited to, her assertion that due to her vulnerabilities and disabilities, she couldn't have reasonably known damage was occurring gradually. And she maintained Aviva's failure to dry her cellar caused further damage that could have been avoided. She also reasserted how her disabilities and vulnerabilities made it difficult for her items to be returned to her, without the cellar being repaired first. So, overall, Ms B reasserted her position that Aviva should cover all the repairs needed to her cellar, and a greater compensation payment be made. As Ms B didn't agree, the complaint has been passed 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'm upholding the complaint for broadly the same reasons as the investigator. I've focused my comments on what I think is relevant. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

Before I explain why I've reached my decision, I want to set out what I've been able to consider, and how. I recognise this complaint, and the circumstances that led to it, have been extremely upsetting for Ms B, even more so when her vulnerabilities and disabilities are considered. I want to reassure Ms B I've thought about this at length when reaching my decision.

I also want to reassure Ms B I've considered all the points she's put forward in support of her position. But I must be clear that, in line with our service's informal approach as an alternative to the courts, I won't be commenting on them all individually. Instead, this decision will focus on the points I'm satisfied are pertinent to the outcome I've reached.

And when doing so, I want to be clear that this decision will focus on the events that occurred from the date of Ms B's claim, up to Aviva's most recent complaint response held on file dated 3 January 2025. That's because before our service can consider a complaint issue, it must first be raised with a business with them being given the appropriate amount of time to respond, before our service has jurisdiction to consider it further.

I recognise Ms B's claim has likely moved on since that date. And because of that, it may seem that my decision is outdated compared to more recent events. But it's not my role, nor the role of our service, to manage or handle the claim. So, any issues Ms B has with Aviva's service after 3 January 2025 would need to be raised with Aviva separately and if necessary, referred to our service for consideration under a new complaint reference.

I then turn to the issues I can consider. And I've separated my decision into sections under

separate titles to address what I'm satisfied are the crux of Ms B's complaint.

Claim decision

I note Ms B is unhappy that her claim was initially declined, before this decision was overturned. But while I accept why Ms B would be unhappy about this, I must also take into consideration the fact that Aviva did in fact accept her claim just over five weeks after it was raised with them. And in any insurance claim of this nature, an insurer such as Aviva are entitled to take steps to validate a claim before choosing to accept it. So, while I appreciate the confusion and distress the initial decision will have caused Ms B, I'm satisfied Aviva fairly considering Ms B's challenges and made a reasonable decision that took into account her vulnerabilities and disabilities individual to her situation. So, I won't be commenting on this point further as I'm satisfied the actions Aviva took fairly addressed the concerns Ms B held.

But as Aviva chose to accept the claim, I would expect them to progress the claim appropriately from this point. Following Aviva's decision to accept the claim, I've seen they appointed C to inspect the damage in Ms B's home. And this inspection was completed within a reasonable time frame from when they chose to accept it.

I've read through the report C provided at length, who I must note are the experts in this situation. And in line with our services approach, we usually find it reasonable for an insurer such as Aviva to rely on the expert opinion provided, unless another conflicting expert opinion is provided that persuades us the initial expert opinion was unreasonable. I note in this situation, another expert opinion hasn't been obtained, although I have considered the information Ms B has supplied about the tanking works that work undertaken prior.

C's report makes it clear that the damage present in Ms B's cellar was caused due a defective tanking system, that had been present for a period of time due to the algae growth and vegetation that was present. And, that the tanking system had been installed a few years prior following similar water ingress by a contractor sourced by Ms B.

The terms and conditions of the policy Ms B held state, within the general exclusions section of the policy, that Aviva won't pay for "*gradually occurring damage*" and "*damage caused by faulty or unsuitable materials, design or poor workmanship*". So, considering C's expert reports state the damage had occurred over a period of time, due to defective tanking installed some years previously, I'm satisfied Aviva have acted fairly when explaining they wouldn't cover the costs of replacing this tanking, or the installation of a sump pump which wasn't installed before the insured event occurred. And so, I won't be directing them to arrange or cover the costs of this work.

Further to this, as the damage to Ms B's contents and the subsequent reinstatement work post tanking repair is required due to damage caused by the defective tanking over a period of time, I'm satisfied Aviva have acted more than fairly by continuing to cover this work for Ms B, when under a strict application of the policy they weren't required to do. I must be clear that as Aviva have taken this decision, I wouldn't expect this to be changed or reversed moving forward.

I'm also satisfied that Aviva communicated this stance clearly to Ms B in emails sent in May 2024 and so, any delays in the claim caused by the failure to arrange this repair work wouldn't be the responsibility of Aviva from this point on.

I note Ms B has challenged the above. And she has referenced the "Build Back Better" provision within her policy. But Aviva have confirmed this provision would only be available if the buildings element of a claim exceeded £25,000 and Aviva have confirmed this isn't the case for her claim. So, I can't say Aviva have acted unfairly when not making further repairs

under this provision.

Delays in installing de-humidifiers

Ms B has complained that Aviva failed to appropriately dry her cellar, which caused further damage to her property and the contents that remained within the cellar. But as I've set out above, from May 2024 I'm satisfied it was made reasonably clear to Ms B that she would need to arrange for the tanking repairs to be completed.

And considering the defective tanking had led to long-standing water ingress issues, as referenced by the damage C found, I can't say Aviva were unfair when deciding that drying couldn't be completed until this repair work was done. This is because it would be illogical, and unhelpful, to dry a cellar that had defective tanking as it was more likely than not the cellar would become damp again. So, I'm unable to say Aviva acted unfairly regarding this point and I won't be directing them to take any further action. But I would expect them to ensure this drying process is undertaken, once tanking repairs have been completed.

Contents claim

I note once the claim had been accepted, Aviva appointed an agent, who I'll refer to as "D", to handle Ms B's claim, which included the removal and storage of her items, as well as assistance with the compilation of a BER list. As D were acting as an agent of Aviva, Aviva ultimately remain responsible for the service D provided.

One of Ms B's main complaints centre around D's failure to return some of her leather items to her on time and correctly, which she says caused her to purchase replacement items for a specific event. But I'm unable to agree that Aviva should compensate her for this cost, and I'll explain why.

I've seen evidence from Aviva that shows they engaged with Ms B's carer regarding her request for these items to be returned. And crucially, I'm satisfied it's not in dispute that these items were returned to Ms B by the date she specified she needed them for. So, while I appreciate why Ms B would choose to purchase replacements as she felt she had no update from Aviva on when these items were due, ultimately this was a decision Ms B herself chose to make.

And when D attempted to comply with Ms B's request, I'm satisfied they did so outside of their usual process, searching through boxes and relying on written descriptions provided by Ms B. So, in situations such as this, I think it's likely that D may have had difficulty understanding exactly what it is Ms B wanted returning and that they took reasonable action to try and fulfil this request as best they could, considering the circumstances.

And because of the above, I'm satisfied Ms B's request would have taken time to fulfil and so, I'm satisfied that D, and therefore Aviva, acted fairly when ensuring the items were returned within the timescale set, even if it was at the limit of the time they had. So, I won't be asking them to take further action or cover the costs Ms B incurred.

I note Ms B has also raised concerns about D, and so Aviva's, wish to return all her contents to her in later 2024, despite her cellar not being watertight. But by this point, Ms B had been made aware for over six months that it would be her responsibility to arrange for the tanking repairs, before the other work Aviva agreed to carry out could take place.

And during this time, Ms B's items taken into storage by D were incurring a storage cost.

Considering the time that had elapsed, I'm unable to say Aviva were unfair to decide that all of Ms B's remaining items needed to be returned to her, as I'm not persuaded it is reasonable to expect Aviva to incur this storage cost indefinitely.

While I appreciate Ms B felt she had nowhere to store these items, and she's set out how she needs room in her home to move freely due to her disabilities, I'm satisfied by this point Ms B had enough time to take steps to repair the tanking and as Aviva had no information to suggest this had been done, or would be done in the near future, I can't say they were unreasonable to take the action they did.

But what I can see is that there were ongoing issues regarding the compilation of Ms B's BER list. And from the evidence available to me, I'm satisfied some of these delays were caused by D not receiving instruction from Aviva to price this list. And I'm satisfied it's clear there is dispute over which items should, and should not be included which I think D, and so Aviva, could have been more proactive in confirming, especially when Ms B's vulnerabilities and disabilities are considered. So, I'm satisfied Aviva acted unfairly regarding this point and I've then turned to what Aviva should do to reasonably put things right.

Putting things right

When deciding what Aviva should do to put things right, any award or direction I make is intended to place Ms B back in the position she should have been in, had Aviva acted fairly in the first place.

In this situation, I'm satisfied Aviva and their agent D failed to appropriately support Ms B in the compilation of her BER list and so, delayed the conclusion of her contents claim. Had Aviva acted fairly, I'm satisfied they would have acted more proactively in ensuring they understood and addressed Ms B's concerns about this list and provided her with the appropriate level of support, considering her individual circumstances. So, to place Ms B back in this position, I'm directing Aviva to prioritise the completion of this BER list, with pricing, as soon as practically possible. This also includes reaching an agreement with Ms B about her vintage items and any repairs that are required, if any. Should Ms B remain unhappy with Aviva's position regarding these items, this will need to be raised as a separate complaint and, if necessary, referred to our service to consider under a new reference.

And I'm satisfied Aviva's failure to assist Ms B in compiling this list would've no doubt caused distress and inconvenience for her, needing to chase Aviva for responses and to ask questions when I would have expected Aviva to ensure they were contacting Ms B proactively to set out what was required and why.

To recognise the above, our investigator recommended Aviva pay Ms B £200 compensation. And having considered this recommendation, I'm satisfied it's a fair one that falls in line with our services approach and what I would have directed, had it not already been put forward.

I'm satisfied it fairly reflects the impact caused to Ms B regarding the BER list, and the length of time it's taken for this aspect of her claim to reach a conclusion unnecessarily. And, that it reflects Ms B's own individual circumstances and her vulnerabilities and disabilities.

But I'm also satisfied it fairly takes into consideration some of the confusion and delays were caused by ongoing disputes over the cellar repairs, and how the failure to repair the tanking had left Ms B's items in storage for an elongated period of time which would have made the compilation of the BER list more difficult. So, this is a payment I'm directing Aviva to make.

I understand this isn't the outcome Ms B was hoping for. And I want to reassure her again

I've considered all the points she's raised, even if I haven't talked to them directly. I also want to make it clear I've thought carefully about her disabilities and vulnerabilities when reaching my decision, and how these would have impacted the situation she found herself in.

But as I've outlined above, I'm satisfied Aviva were fair to refuse cover for the tanking repairs, and any installation of a sump pump. And it's the delay to this work being carried out that has led to delays in the repairs to the cellar and the return of her items from storage, as well as the inconvenience having these items returned to her has caused due to her being unable to use the cellar as she had done previously.

I also want to point out again that I'm aware Ms B's claim may still be ongoing, and that the situation may have developed and changed from the time my decision can consider. But this decision has been made in line with the rules and regulations our service must work within.

My final decision

For the reasons outlined above, I uphold Ms B's complaint about Aviva Insurance Limited and I direct them to take the following action:

- Prioritise and proactively ensure the compilation of Ms B's BER list, and the overall conclusion of her contents claim, is finalised as soon as reasonably practicable; and
- Pay Ms B £200 compensation to recognise the distress and inconvenience she'd been caused by their failures I've outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 12 August 2025.

Josh Haskey
Ombudsman