

complaint

Mr and Mrs G are unhappy with the deduction for under-insurance Aviva Insurance Limited ("Aviva") has made on its cash settlement of their buildings claim.

background

I've attached my second provisional decision from February 2016. It forms part of this final decision. In it I set out why I intended to uphold Mr and Mrs G's complaint. I also invited Mr and Mrs G and Aviva to send me any further information they wanted me to look at before I made a final decision.

Mr and Mrs G said they had no further comments to make. Aviva said it remains of the view that there is a minor underinsurance issue. But it now thinks that this is only a nominal amount. So it's willing to accept my second provisional decision.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

As Mr and Mrs G had no comments on my second provisional decision, and Aviva accepts it, I see no reason to change my view that this complaint should be upheld.

my final decision

It follows from the above that I'm upholding this complaint and require Aviva Insurance Limited to:

- Pay Mr and Mrs G £48,539.40, which was wrongly deducted from the cash settlement of their claim. Simple interest at 8% should be added to this amount from the settlement date to when this amount is paid, less any tax properly deductible.
- Refund Mr and Mrs G any excess premiums they've had to pay because the "Value at Risk" used was too high. Simple interest at 8% should be added to these from the date the premiums were paid to the date the refund is made, less any tax properly deductible.

HM Revenue & Customs requires Aviva to take off tax from the above interest. Aviva must give Mr and Mrs G a certificate showing how much tax it's taken off if they ask for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs G to accept or reject my decision before 18 April 2016.

Simon Furse
ombudsman

Copy of my second provisional decision

complaint

Mr and Mrs G are unhappy with the deduction for under-insurance Aviva Insurance Limited ("Aviva") has made on its cash settlement of their buildings claim.

background

I've attached my provisional decision from December 2015. It forms part of this second provisional decision. In it I set out why I intended to uphold Mr and Mrs G's complaint in part. I also invited Mr and Mrs G and Aviva to send me any further information they wanted me to look at before I made a final decision.

Aviva accepted my provisional decision in part. It said that *"if there was an outstanding payment, then this should be paid"*. But it didn't think it needed to respond about the size of the policy premiums paid by Mr and Mrs G. It said their broker should deal with this as it no longer underwrites the policy.

Mr and Mrs G didn't accept my provisional decision. They questioned whether the underinsurance calculation should be expressed simply in terms of floor area, regardless of the type of space involved. They continued to think that it wasn't fair to use such a broad based rebuilding index in the calculation. And they questioned the very existence of the index which Aviva has said was applied. They also argued that a more appropriate exchange rate should have been used.

my provisional findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

In the light of Mr and Mrs G's comments, I asked Aviva to send me further information about the index it says it used to calculate the rebuild cost of their property. This was described as *"the average cost of rebuilding in France in 2007"*. I also asked it to provide information on the index for the Tarn region which it had previously mentioned as a possible alternative index.

Aviva said the engineers who did these calculations have now left the employment of their contractor. But it attached a later review of these calculations, done by another of the contractor's engineers. It seems that this review was done before Mr and Mrs G were sent a final letter responding to their concerns about the underinsurance calculation.

Having read this review, I think it seriously calls into question the validity of the calculations which were done. The author was unable to locate the source of the index actually used. But he found an alternative index on a property website. However, this wasn't for the year in question. Using this index, notionally adjusted for inflation, he came up with a much lower underinsurance figure. And he also highlighted a whole range of assumptions and uncertainties about the figures he, and the original engineers, had used.

In the conclusions section of the review the author states: *"The policyholder has raised some valid points which are supported in the above evidence."* He also states in this section that *"However the information is interpreted, the adequacy of the sum insured is very tight and open to dispute. Particularly if the claim were to be say cash settled, and the policyholders were able to have it rebuilt at that figure."*

I don't know why Aviva's contractor didn't reconsider the underinsurance calculation when it received this report. Nor do I know why this report hasn't previously been made available to this service. But on the basis of this new evidence, I'm no longer satisfied that an appropriate rebuilding index was used to estimate Mr and Mrs G's level of underinsurance. And as Aviva hasn't been able to justify the

£48,539.40 underinsurance deduction it made to their settlement, I think this should now be paid to them.

I've also thought about Aviva's response to what I said in my provisional decision about the insurance premiums. I don't accept that this is a matter for Mr and Mrs G's broker to deal with. I still think Aviva is responsible for them overpaying for their buildings insurance. This is because it overstated the rebuilding cost of their property. And they've had to pay more than they should have done for their policy whilst the claim was being dealt with. So I think Aviva need to find out how much Mr and Mrs G have overpaid and repay this to them. I appreciate that, to do this, it may need to obtain further information from Mr and Mrs G and/or their insurance broker.

my provisional decision

It follows from the above that I am intending to uphold this complaint and require Aviva to:

- Pay Mr and Mrs G £48,539.40, which was wrongly deducted from the cash settlement of their claim. Simple interest at 8% should be added to this amount from the settlement date to when this amount is paid, less any tax properly deductible.
- Refund Mr and Mrs G any excess premiums they've had to pay because the "Value at Risk" used was too high. Simple interest at 8% should be added to these from the date the premiums were paid to the date the refund is made, less any tax properly deductible.

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