

The complaint

Miss W complains about the service provided by Aviva Insurance Limited when responding to her home insurance claim.

Aviva are the underwriters (insurers) of this policy. Some of this complaint concerns the actions of their appointed agents. As Aviva accept they are accountable for the actions of their agents, in my decision, any reference to Aviva should be interpreted as also covering the actions of their appointed agents.

What happened

The background to this complaint is well known to Miss W and Aviva. In my decision, I'll focus mainly on giving the reasons for reaching the outcome that I have.

Miss W had a home insurance policy with Aviva. On 23 January 2023, she notified Aviva that she needed to make a claim on her home insurance policy following water (sewage) damage.

Due to the condition of her property following the leak, Miss W moved into alternative accommodation. Miss W later complained to Aviva as she was unhappy with how they'd handled her claim and the service provided. She also felt that she'd been discriminated against.

Miss W said that she had suffered damaged to many of her possessions - over 6000 separate items, totalling around £200,000. She said that many of the items had already been disposed of prior to Aviva's assessment of the claim. Aviva say they requested proof of ownership to help them validate the claim.

Aviva also said as their contractors were not granted access to the property - both to validate the contents claim and to allow repair works to take place - they wouldn't continue paying for alternative accommodation indefinitely. They gave Miss W notice that they wouldn't extend payment beyond 16 May 2023.

As Miss W remained unhappy with Aviva's response she referred her complaint to our Service for an independent review. Our Investigator considered the complaint but didn't recommend that it be upheld. As Miss W remained unhappy, the complaint has been referred to me for a final 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.

Our Service is an alternative, informal dispute resolution service. Although I may not address every point raised as part of this complaint - I have considered everything. This isn't intended as a discourtesy to either party – it simply reflects the informal nature of our Service.

I'm very sorry to hear of the impact that this claim event has had on Miss W and her family. It's clear from her submissions that this loss event and subsequent claim have impacted her physical and mental health. Miss W should not interpret my decision as in any way detracting from her experience, but I also do need to remain impartial and independent when considering the complaint. At times this may mean I'm simply stating what has happened, but I've kept in mind throughout this complaint that behind it is someone that's come to our Service for a resolution to her dispute with Aviva.

The scope of my decision

Before our Service can investigate a complaint, the respondent business (Aviva) must first have been given the opportunity to investigate the complaint and put things right (if appropriate). It's important I make this point, as the complaint that Aviva responded to in their final response letter dated 12 May 2023 differs to the complaint Miss W asked our Service to look into.

Specifically, the final response letter addressed the claim validation process and some issues with accommodation prior to the short term let being arranged. But the complaint Miss W asked us to look into largely focusses on alleged discrimination under the Equality Act, by Aviva. I will return to this point shortly. I also note that she's provided a lot of evidence that postdates the final response letter.

For clarity, my decision will only address the complaint addressed under the final response letter dated 12 May 2023. But I will also refer to the discrimination point as I can see Miss W had expressed dissatisfaction with Aviva around the time of (and prior to) making the complaint and again after receiving the final response letter.

As per the DISP rules under which our Service operates, any dissatisfaction arising after 12 May 2023 needs to be referred to Aviva in the first instance as a new complaint - before our Service can investigate those issues. More information can be found here: <https://www.handbook.fca.org.uk/handbook/DISP/2/8.html>

For ease of reading, I will split my findings below into sub sections. I won't comment on every interaction or communication between Miss W and Aviva – only what I consider to be key and material - in my opinion, to the outcome of the complaint.

Discrimination

Miss W has alleged that she was discriminated against under the Equality Act 2010. But it's not my role, or the role of this Service to decide whether Aviva acted unlawfully or not (breached the Equality Act 2010). That would be a matter for the Courts.

My role is to decide what's fair and reasonable in the circumstances of this complaint. But when reaching that finding, I have taken a number of things into account - including relevant law and what we consider to have been good industry practice at the time. So, although it's for the Courts to say whether or not Aviva breached the Equality Act 2010, I'm required to take the Equality Act 2010 into account - if it's relevant, amongst other things when deciding what is fair and reasonable in the circumstances of the complaint.

Having carefully considered the evidence, on balance I'm not persuaded by the allegations of unfairness that Miss W has made and instead, I've found that Aviva tried their best to treat

Miss W sensitively and fairly, taking into account all the information about her vulnerabilities that she's shared to allow this claim to move forward with Miss W's co-operation.

The claim validation process and service provided

This section of my decision covers off what I consider to be the main points of the complaint that materially affect the outcome.

Initially when notified that Miss W's daughter had paid someone to clean the sewage damage, Aviva said they'd potentially consider any invoices. It is up to Miss W to provide these to Aviva for consideration. A call note from 26 January states that Miss W's daughter had someone clean some of the property and dispose of damaged items. Miss W was worried and didn't know what had been disposed of.

Miss W has recently provided a photo of a skip at her property, after the date of Aviva's initial site visit. I've inferred from this that she feels some items may have been taken out of her home, but still were on site. Miss W sent through an inventory/list of items she was claiming for the night before the initial visit. In that email she stated:

*"As per the list and **items that have been disposed of** [bold added for emphasis by Ombudsman], there is photographic evidence.*

This supports that some items were *possibly* disposed of *prior* to that initial visit on behalf of Aviva - thus potentially prejudicing the claim and Aviva's attempts to validate what Miss W was claiming for. Other evidence seemingly supports this conclusion. For example, an email from Miss W dated 29 January refers to items having been disposed of, but records kept of what was disposed.

Overall, I've had to weigh up conflicting viewpoints against the available evidence to determine what I think is more likely than not to have happened. I've also kept in mind 1- that memories can fade over time and 2- even if the items had been disposed, Miss W was still presented with a fair opportunity to show proof of ownership for the purposes of claim validation. On balance I don't find that Aviva have acted unfairly in relation to this point.

I find subsequent attempts by Aviva to arrange another visit to be fair and reasonable and I understand Miss W was unwilling to allow these site visits to happen. Overall, I'm satisfied that Miss W was given a fair opportunity to help Aviva validate the items she's claiming for and Aviva have been very clear in terms of what proof/supporting evidence they require to do so.

I also find that Aviva were not responsible for any delay in the initial site visit happening. The evidence I've seen supports that they tried to accommodate Miss W's availability and this was the reason for the initial delay

Miss W later met with an agent of Aviva on 29 March 2023 in a hotel. They made Miss W aware of charges registered against her property which came to light as part of the claim validation process. Although alarming for Miss W, I don't find that Aviva did anything wrong when making her aware of this information. I find it was in the spirit of being transparent and open. I also can understand why Aviva then felt it important to try and continue validating what was being claimed for - particularly given the very high number of items and the overall claim value.

On 3 April Aviva requested original photographs from Miss W's iPad along with metadata to be provided. In my opinion, this was a reasonable request when validating a claim of this

nature and its' high value. They also asked for contact details to help validate the invoice for £620 from the initial clean-up which Miss W paid for in cash. Further enquiries were made into the outstanding charges against the property, CCTV at the property and the contents claim. Of particular importance was this extract:

“As mentioned and discussed, it is the policyholder’s responsibility to ‘prove their loss’. This means, it is your responsibility to prove to your insurer / their appointed representative(s) that:

- 1. you possessed the items at the time of the incident*
- 2. the items under claim were owned by you*
- 3. the items under claim were in fact affected by the insured incident”*

I highlight this extract for context. I've found that what Aviva were doing was attempting to validate the claim, given its' relatively large value and what they identified during their initial validation process. Based on experience, this was a relatively large claim for contents that would normally be more akin to a claim arising out of fire, storm or a serious escape of water over a prolonged period claim.

This was an indemnity policy, that was intended to place Miss W back in the same position she was in prior to the loss event. As a starting point, the onus rests on the policy holder to demonstrate that what is being claimed for and the circumstances of that loss match up. The responsibility then passes over to the insurer to validate that claim and if they accept it, settle it in line with the policy terms and related limits.

In my opinion it was entirely reasonable to ask for proof of ownership for many for the items in question given the extensive loss being claimed for. I'm also satisfied that Aviva approached this in a sensitive and appropriate manner.

Some time passed whilst Miss W was awaiting an SAR request from Aviva. In an email to Aviva dated 27 April 2023, she stated:

“I have asked Aviva to inform all third parties until this is rectified and not for anyone to be assigned to do any work on my house. As you are aware this is a formal investigation to safeguard myself I deem it would be improper for anyone to go to my house to tamper with evidence.”

Based on the above, I can't fairly hold Aviva responsible for delays around this time when Miss W was unwilling to allow repair/reinstatement works to commence.

It was positive that Aviva arranged alternative accommodation for Miss W and her daughter. I understand that Miss W was very upset when Aviva let her know this would be ending (unless she agreed to work with them to move the claim forward), but overall I'm satisfied that Aviva were patient across a number of months and tried to work with Miss W to prevent this end result. At that point Aviva had paid over £43,000 in accommodation costs.

I also note that even after notice was given, Aviva and their agents reached out on a number of occasions to try and reach a compromise with Miss W. For example, on 16 May 2023 when Miss W let Aviva know of the impact of their decision, Aviva said:

“Please be assured that we are trying to help. We want to make it clear that our aim is to get you and your daughter back into your home as quickly as possible. We do not want you to be living in alternative accommodation, away from your home, for longer than absolutely necessary whilst we make your property ready to live in again. However we cannot help you if you do not allow our contractors access to your property to start the work that is required to make your property habitable.

If you are willing to allow our contractors to access your property to start necessary works, then we will consider further payment in relation to your alternative accommodation costs. [Bold added for emphasis by Ombudsman]

I look forward to hearing from you with your agreement that we can rearrange for our contractors to attend your property, and dates that are suitable.”

This was a positive, sympathetic and fair offer. But Miss W didn't accept it and I can't hold Aviva responsible for that. Miss W and Aviva exchanged further replies and whilst I understand Miss W's rationale for not wanting to return to the property in its' condition at that time, Aviva again reached out on 19 May 2023 with an offer to allow Miss W an opportunity to provide contact details for anyone else who could discuss the complaint on Miss W's behalf. I find Aviva acted fairly when asking Miss W if there was anyone in a position to help her deal with the claim, or on her behalf to try and reduce the impact she has described on her health.

I'm satisfied that Aviva tried to treat Miss W fairly and positively, with the end goal of Miss W being able to move back into her property. For example a clear plan of action was set out in an email dated 4 April 2023. Miss W replied on 6 April letting Aviva know of her ongoing mental health issues as a result of the claim and requested that Aviva hold off until her solicitors contact them - but no contact was ever received. I've seen evidence that Aviva involved senior colleagues in their decision making at key points to ensure, where possible, that this claim was treated with the sensitivity that it needed and any avoidable impact on Miss W minimised.

Of course Miss W has interpreted their actions differently, but I find that Aviva gave Miss W numerous opportunities to work with them to validate and resolve her claim to allow her to move back into her home.

New issues post FRL

As outlined already, there are a fair number of issues, primarily related to the impact Miss W has described on her health as a result of this claim that she would first need to raise with Aviva before our Service could investigate those issues.

Summary

Having carefully considered the evidence in this complaint, I don't find that Aviva have treated Miss W unfairly or unreasonably.

My decision will inevitably disappoint Miss W, but it brings to an end our Service's involvement in trying to informally resolve her dispute with Aviva.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss W to accept or reject my decision before 23 April 2024.

Daniel O'Shea
Ombudsman