

The complaint

Ms B and Mr D have complained that Aviva Insurance Limited ('Aviva') declined their claim for carpet damage under their home insurance policy.

For the avoidance of doubt, the term 'Aviva' includes its agents and representatives in this decision letter.

What happened

Unfortunately, Ms B and Mr D's living room carpet was damaged when a family member spilt paint on it in February 2023. Ms B and Mr D were insured with Aviva at the relevant time, and made a claim for the damage on their home insurance policy. They informed Aviva that they'd bought the carpet around 6 years previously for £900.

Aviva initially offered £700 less an excess amount for the damage, which Ms B declined. Aviva's agents then advised that the damage wasn't consistent with the claim details, and Aviva declined the claim. Ms B considered that Aviva had incorrectly based its decision on a photograph alone. Ms B and Mr D wished to be reimbursed for a new carpet and made a complaint to Aviva. However, Aviva maintained its decision to decline. In the circumstances, Ms B and Mr D referred their complaint to this service.

The relevant investigator didn't uphold Ms B and Mr D's complaint. He said that as the area of damage was quite large, he didn't think that this could have been caused solely by the paint lid. He noted that Aviva had declined the claim on the basis that Ms B and Mr D had been unable to provide sufficient and consistent evidence to prove the loss. The investigator wasn't persuaded that they'd incorrectly declined the claim.

Ms B and Mr D remain unhappy with the outcome of their complaint. In the circumstances, the matter has been referred to me to make a final decision in my role as Ombudsman.

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 key issue for me to determine here is whether Aviva has acted in a fair and reasonable manner in declining Ms B and Mr D's claim for paint damage to their carpet. I can't say that it's acted unfairly or unreasonably, and I'll explain why. In reaching this decision, I've also considered the parties' submissions as summarised below.

Ms B and Mr D didn't accept that Aviva's decision had been fully explained. They also said that Ms B had given an honest account of how the accident occurred, and they didn't think that the paint damage was inconsistent with the claim details. They found it hard to believe that a decision had been made from a picture provided by themselves. As Aviva was suspicious about the carpet stain and inconsistencies with the claim, they questioned why Aviva didn't send an assessor to take a further look at the damage.

Mr B and Mr S felt that as the policy included accidental damage, and this is what had occurred here, then they'd expected Aviva to act in a professional manner and to process their claim. They weren't experts on paint spillage, however if the decision was being based on the 'method of stain', then they felt they had no option but to take the matter further. They said that there was nothing in the policy to say that the method of stain through accidental damage was arguable. Ms B said there was nothing 'expert' about the assessment that the stain was inconsistent with the claim.

Ms B explained what happened. She said that her son had explained that he'd been holding the tin of paint with both his hands while carrying it across the floor and the lid popped off the tin from a height. It then *'went onto its side and swirled and twirled whatever way a lid does.'* Her son ran into the kitchen with the tin of paint in his hands minus the lid, as he knew he was going to be *'in bother'*. She said the tin was dripping paint down the side and left drops on the carpet on his way out of the lounge. Ms B and Mr D then entered the lounge very quickly after this. Mr D then picked up the lid from the carpet, paint-side up. Ms B said that the lid had rolled and landed away from the stain itself. They said it was quite possible that their son *'got a shock when the lid popped off the tin and a blob of paint may have popped out of the tin itself.'*

Finally, Ms B and Mr D felt that Aviva had tried to intimidate them on numerous occasions as it said it didn't believe that the damage to the carpet was caused in the way described by Ms B and Mr D. They also felt that there had been communication failures by Aviva. They said they'd held a policy with Aviva for around three years and this was the first time they'd made a claim. They'd now received a quote to renew their carpet, and it would cost nearly £1,200.

I now turn to Aviva's response to Ms B and Mr D. It said that following its initial telephone interview with Ms B and Mr D, it noted their evidence that their son had been carrying a pot of black gloss paint through the lounge, the lid had come loose and had fallen onto the carpet. During a further telephone call, Aviva asked further questions to see if the responses would alleviate its agent's concerns.

Aviva said that the reports received from its agents advised that the paint mark wasn't consistent with what would be expected, given the circumstances reported to it. The first report referred to concerns that there was no sign of the paint lid being dropped on the floor. It said that as the paint swirled off in different directions, this indicated being poured or moved in circles. There was no point of impact or pooling where the lid would have landed, and Ms B had said there was no paint brush involved. In summary, Aviva didn't consider that the damage was consistent with the version of events given by Ms B and Mr D.

In conclusion, Aviva said that the image it had of the damage wasn't consistent with the account given by the policyholders when making their claim. However, it said it had offered Ms B and Mr D the opportunity to provide any further evidence to support their claim

The starting point in cases of this nature will be the policy wording, as this forms the basis of the agreement between the policyholder and insurer. In this case *'accidental damage'* is defined as *'Damage caused suddenly and unexpectedly by an outside force'*. Aviva doesn't dispute that cover was in place for such damage. It also referred to the following wording, *'...It is your responsibility to prove any loss and therefore we may ask you to provide receipts, valuations, photographs...and any other relevant information, documents and assistance we may require to help with your claim.'*

I note that Aviva declined Ms B and Mr D's claim on the basis that they'd been unable to provide sufficient evidence to prove the loss, as it considered the evidence to be inconsistent with the visible damage. I can understand why Ms B and Mr D have questioned how Aviva could make its decision based on a photograph supplied by them. However, it's ultimately for

the policyholder to substantiate any claim on an insurance policy with appropriate evidence. In this case, I note that the photograph was taken shortly after the incident, and I consider it to be a very clear photograph. In the circumstances, a site visit was needed, and this was sufficient to describe the damage. In the circumstances, I can't say that the fact that Aviva reached its judgment based on a photograph was itself unreasonable.

The decision as to whether Aviva fairly and reasonably declined this claim is however a finely balanced one. I'm satisfied that during telephone interview, Ms B had provided the best account she could of how she thought the paint spill had occurred. However, she made it very clear that neither Mr D nor herself had been in the room at the time of the accident and Ms B was only able to provide an account of what her son had told her.

Due to the wording of the policy and the definition of '*accidental damage*' I must determine, on the balance of probabilities, whether it was fair and reasonable for Aviva to have reached the conclusion that it did. Having reviewed the available photographs and reports produced in this matter, I'm persuaded on the balance of probabilities that it was fair to say that the damage wasn't consistent with the assessment provided by Ms B and Mr D.

I understand why a circular stain may not have appeared on the carpet, and I accept what Ms B and Mr D say the paint lid had eventually settled on the carpet paint-side up. However, the photograph in question raises legitimate questions as to how the paint damage occurred. The area and appearance of damage isn't consistent with paint damage caused solely or mainly by the paint lid. Nor is it consistent with a '*blob of paint popping out of the tin itself*.' In the circumstances, I consider it fair and reasonable that Aviva concluded that the damage was inconsistent with a paint lid falling onto the floor. Without further evidence, I agree that the damage doesn't match the version of events offered by Ms B and Mr D at the outset.

I appreciate that this will come as a great disappointment to Ms B and Mr D, however on the balance of probabilities, and based on the available evidence, I consider that Aviva have carried out a fair and reasonable investigation. I'm also satisfied that their decision to decline the claim was fair and reasonable in all the circumstances. Finally, I consider that Aviva's offer to consider any further evidence which Ms B and Mr D may wish to produce, also to be fair and reasonable.

My final decision

For the reasons given above, I don't intend to uphold Ms B and Mr D's complaint and I don't require Aviva Insurance Limited to do any more in response to their complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B and Mr D to accept or reject my decision before 17 December 2023.

Claire Jones
Ombudsman