

## The complaint

Mr C complains that British Gas Insurance Limited (BG) said his boiler couldn't be repaired and that annual services weren't carried out under his home emergency policy.

## What happened

Mr C's policy provided for emergency repairs to and an annual service of his boiler. He'd had the policy for many years, with it renewing each August. The boiler required repairs in November 2019. The engineer said parts weren't available due to the boiler's age and couldn't have been fitted anyway due to the way it had been installed.

Mr C complained to BG saying he'd been paying premiums for something he couldn't use if parts weren't available. He also said services had been missed. He said he'd never been sent a contract or terms and conditions (T&Cs).

BG rejected his complaint. It said that the part was available and lack of access to the boiler was the problem. It said Mr C had been told about reduced parts availability for his boiler in notes left after services. It said whilst services hadn't been carried out every year, they'd been offered to Mr C and he hadn't responded to make an appointment.

Mr C referred his complaint to our service and our investigator looked into it. He asked BG about parts availability. BG said service notes left with Mr C since March 2015 advised the boiler was on a reduced servicing list (RSL) for parts. It said due to this and general age and efficiency concerns, engineers had advised replacement of the boiler since 2011.

Our investigator asked given the age of the boiler, sludge in the system and installation issues preventing access, whether Mr C would have been eligible for any repair under the policy. BG said some parts were still available so some repairs could be made. It provided evidence of various repairs it had made since 2009.

Our investigator said it wouldn't be reasonable for BG to charge a premium if the boiler couldn't be repaired. But as some repairs were possible, BG didn't need to refund the premiums under the policy. But he said it wasn't fair and reasonable for BG to keep the cost attributable to a service if it hadn't been booked. He said it hadn't incurred any costs in respect of providing this part of the policy if an engineer didn't even attend. He said BG should refund the annual cost (£65) of the four services missed, £260 in total.

BG disagreed. It said it had offered services by sending out reminders in each year for Mr C to book an appointment. It said the T&Cs were clear about services and it had fulfilled its part in offering them. So, it was "*extremely harsh*" to ask it to refund for service visits that hadn't been arranged by Mr C. Mr C said he didn't know there was a problem obtaining parts until the engineer told him in November 2019. And when he made his complaint, he said a manager told him BG wouldn't be able to get any parts for his boiler. Our investigator raised this with BG.

BG said Mr C was advised about parts availability in March 2015 on the job sheet left with him. This also provided general advice about the boiler. BG said it didn't keep copies of job

sheets as it was a paperless system. It said it had no records about anyone advising Mr C that no parts were available. It said it would have cancelled the agreement if that had been the case. Mr C said he didn't have a copy of the job sheet and hadn't been informed about this at that time.

Our investigator upheld both parts of Mr C's complaint. He said the boiler being on the RSL could significantly impact the level of service BG might provide. It was more likely than not that Mr C would have cancelled the policy had he known his boiler was on the RSL. And there was no evidence that BG did clearly communicate it to Mr C. He said a fair outcome would be for BG to refund premiums from March 2015 with interest, less the cost of any claims or services carried out. And it should refund the service cost for 2011 and 2013 with interest.

BG disagreed, saying the T&C's and reminders sent about annual servicing couldn't be clearer. It said job sheets left with customers gave advice and it couldn't see what more it could do to record the advice provided. It said it was unfair to assume Mr C would have cancelled the policy once it was RSL as many customers do not. It said the lack of availability of parts was noted in the annual renewal documents sent to Mr C. As BG doesn't agree it has come to me to decide.

### **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 am upholding the complaint.

I have considered the T&C's of the policy and the renewal information and reminders sent. Mr C says he never received the T&C's, but BG has provided copies of what appear to be correctly addressed renewal and reminder letters. As most post is successfully delivered, I think it's likely that Mr C did receive these. But I don't think they gave Mr C the information he needed to decide whether the policy was suitable for him.

### **Reduced Service Listing**

I think this is a significant factor in the value of the policy to Mr C. He says the lack of parts availability made the policy worthless. There isn't clear evidence about when he was first informed about the RSL. However, the renewal letters provide details of the cover and do draw attention to issue of parts availability.

The 2019 renewal letter says this about parts:

#### ***Important Information – parts availability***

- *Your boiler's manufacturer stopped making your particular model of boiler a while ago. They're still making the most important parts for your boiler, some other parts are becoming difficult to source*
- *This means we may not be able to fix your boiler if it breaks down, but we'll do our best to keep it running for as long as possible*
- *In the unlikely event we can't fix the boiler, you may be able to get a refund back dated to when you last had work done, or to when you renewed your agreement – whichever's the most recent"*

BG says this information shows that Mr C would have been aware that his boiler was on the RSL and might not be repairable in some situations. But I think this document says that repair will be possible in most situations. It states that "*most important parts*" are still

available and that not being able to complete a repair was an “*unlikely event*”. BG is the expert here not Mr C. So, I think based on this information it would be reasonable for Mr C to take the view that it was more likely than not that BG would be able to fix the boiler and that the policy was worth continuing with.

In this case, there was the additional problem of how the boiler had been installed, further reducing the possibility of a successful repair. This wasn’t a new or unknown factor, BG had been maintaining the boiler for many years.

Again, BG is the expert and this information wasn’t pointed out in the renewal and it isn’t clear that this was communicated to Mr C. And, if it was, whether it was in a format where the implications would be understood by a non-expert.

When our investigator asked about the chance of successful repair given the boiler’s age, history of sludge build up (which was specifically not covered by the policy) and the manner of the installation. BG replied, “*with this boiler there are still some parts available and repairs can be completed but not all*”. I think this is quite different from what the renewal document says.

So, when the renewal document asked Mr C to check the details including “*that the level of cover you’ve got with us is still right for you*”, I don’t think he had enough information to establish that the cover was right for him. The renewal says it is more likely than not that the boiler could be repaired. But, its age and condition, installation issues and reduced parts availability, all factors known to BG, do appear to have made successful repair an increasingly remote possibility.

I think if Mr C had been made properly aware of this, he would have questioned whether it was worth continuing the cover and probably would have decided against doing so. So, I think it is fair and reasonable that BG refund premiums paid by Mr C in each policy year since March 2015 (when the boiler was put on the RSL) less any claims or services carried out under the policy each year.

## **Servicing**

Both T&C’s and service reminders do place the responsibility for arranging a boiler service on to the customer. But BG would appear to have only nominal costs in offering the service as part of the wider package compared with undertaking one. And it hasn’t provided evidence that this isn’t the case. I don’t think it is fair for BG to charge for something that hasn’t been provided. The cost attributed to a boiler service has been identified as being £65 in the past. I think the service costs of these for 2011 and 2013 should be refunded.

## **My final decision**

My final decision is that I that I uphold the complaint against British Gas Insurance Limited.

I direct British Gas Insurance Limited to refund the premiums paid by Mr C since March 2015 less the cost of any annual services and claims in each policy year. It should pay interest at 8% per year simple on the balance to be refunded from the date the premiums were paid to the date of refund.

I direct British Gas Insurance Limited to refund £65 in respect of the service for 2011 and £65 for the service for 2013 with interest of 8% per year simple added from the date the premium was paid until the date of refund.

If British Gas 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 certificate showing this 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 16 November 2020.

Nigel Bracken  
**Ombudsman**