

## **The complaint**

Mr M complains about how Aviva Insurance Limited settled his home emergency insurance claim.

For ease, in my decision I will refer to Aviva when talking about its agents or representatives.

## **What happened**

Mr M had home emergency insurance with Aviva. At the beginning of November 2019 his boiler broke down. Aviva attended and said the boiler couldn't be repaired.

Over the next three weeks Aviva looked into Mr M's claim. It initially told Mr M it would have to replace the boiler. Because Mr M's boiler was over seven years old Aviva took a payment of £500 from him towards the costs. But Aviva later told Mr M his system would need upgrading to enable the boiler to be replaced. Aviva said it wouldn't cover these costs. In mid-November, it cash settled Mr M's claim for £1,980 which it said included a refund of the £500 Mr M had already paid.

Mr M asked for installation quotes from other companies and was advised it would cost him over £3,400. Mr M sent one of these quotes to Aviva in December 2019 and asked it to increase its cash settlement or replace the boiler. Aviva didn't reply. So, Mr M complained.

Aviva partially upheld Mr M's complaint. It said it should have replied to Mr M in December and apologised. But it was satisfied the cash settlement already paid was fair.

Mr M remained unhappy, so he brought his complaint to our service. He said the money he'd received wouldn't cover the cost of replacing his boiler. Mr M said he didn't agree to cash settle the claim and wanted Aviva to replace his boiler. He said Aviva told him the estimates it received were too expensive and it didn't want to do the work. Mr M said he'd offered to pay the extra costs, but this option wasn't given to him.

Our investigator upheld Mr M's complaint. They asked Aviva to cover the full costs to replace Mr M's boiler including the system upgrades. Our investigator noted Aviva told our service the cash settlement was expected to cover the upgrade costs. So, the investigator felt it was unfair for Aviva to change its mind now. Our investigator also asked Aviva to pay Mr M £500 compensation for delays, poor service, additional costs, distress and inconvenience. But Aviva didn't agree. So, the matter's been passed 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 reviewed Mr M's policy, I can see that if his boiler needed to be replaced, Aviva agreed to source, replace and install a new boiler. However, the policy also states that

although Aviva will cover costs associated with boiler replacement and installation, it will not cover the costs of system upgrades.

Aviva told us that after sending out engineers, it established that in order to replace Mr M's boiler, upgrades were required. This seems to be the opinion of relevant experts who physically inspected Mr M's boiler and in the absence of other evidence, I've no reason to doubt this account. So, I do think Mr M's system needed upgrading in order to replace his boiler for an equivalent one. And based on the terms of his policy, I'm satisfied Mr M was expected to cover the costs of these upgrades, with Aviva covering the costs of a new equivalent boiler and installation.

Aviva clearly didn't source, replace and install a boiler in line with the policy terms. Instead, it cash settled the claim. And whilst there's no term in the policy allowing Aviva to do this, I wouldn't necessarily say this was unreasonable if Mr M was given a choice, and then agreed to the cash settlement.

But Mr M told us he was given no option to pay the extra money and he didn't want to cash settle. Aviva's notes made on the day of the cash settlement say that Mr M was told he could either allow their contractor to do the works and he could pay the additional upgrade costs, or he could cash settle the claim. The notes go on to say Mr M agreed to the cash settlement. So, Aviva's notes indicate that Mr M was given an option of dealing with the claim in line with the policy but that he chose the cash settlement. Where evidence is conflicting, I need to decide what's more likely to have happened.

The fact Aviva's notes were made on the day does add weight to this evidence. And whilst Mr M told us Aviva never explained the cash was a settlement, he did say he accepted the cash payment. And I think any reasonable consumer would understand that receiving a cash lump sum for a claim was essentially a settlement and the business wouldn't be doing any further work. But Aviva provided our service with a summary of the claim. And in this it stated that *'there was lots of additional work required to upgrade the customer's system. As a result of this it was established that we did not wish to install a boiler at Mr M's properly due to alterations required to the system.'* And this is exactly what Mr M said had happened. I also gave Aviva the opportunity to explain these differing summaries, but it provided no further comment. Mr M also told us he explained to Aviva that he was willing to pay towards extra costs if needed, and this is reflected in Aviva's claim notes before the cash settlement was made. Taking all of this into account, on balance, I think it's likely Aviva did decide it didn't want to carry out the work and I don't think Mr M was given a choice when it cash settled his claim.

And just because Mr M's installation was particularly difficult (and would involve liaising with him to cover the costs of the upgrades), doesn't mean Aviva can simply decide not to do it. This resolution isn't in line with the policy terms and so I don't think Aviva acted reasonably here.

I've then thought about how to put things right. Mr M still hasn't had his boiler replaced but Aviva has made it clear it is unwilling to do the work. And I think there's been a fundamental break down in Mr M's relationship with Aviva. So, I think the best thing in these circumstances would be for Mr M to ask another company to undertake the work.

So, I've thought about whether Aviva's cash settlement is reasonable.

I'm aware our investigator was of the view that Aviva should cover the system upgrade costs. This was because Aviva told our service the cash settlement covered these costs. And I agree that had Aviva promised this to Mr M and then withdrawn that offer, this may have been unfair. But having reviewed the communications between Aviva and Mr M, I've

seen no evidence to suggest Aviva ever told Mr M he'd be covered for these costs. Instead, I've seen emails repeatedly advising Mr M he'd have to pay for these himself. So, I'm satisfied any reference to covering system upgrades was made to our service, on one occasion, and in error. So, I don't think this error means Aviva should cover the costs of Mr M's system upgrades.

But I don't think Aviva's settlement is enough – I'll explain why.

There are multiple costs detailed in Aviva's claim notes at varying prices, but the only full quotations it provided are much higher values than the amount paid to Mr M. So, I don't have any clear evidence from Aviva that the figure it paid is fair. And despite asking for this, no further evidence was provided.

I've also considered that Mr M doesn't have the benefit of discounts from contractual arrangements. So, I think it's likely the quotes Mr M can now get will be more than it would have cost Aviva to arrange the work. I think it's reasonable Aviva cover these additional costs even if it could've done the work cheaper, given Aviva wasn't willing to do the work itself.

Mr M sent us a quote from a company he wants to use which shows it will cost £3,676 in total to replace and install his boiler including the necessary upgrades. This quote isn't broken down in a way that you can easily distinguish upgrade from replacement costs. So, I asked Aviva which of these costs it considered additional. But it didn't reply. And without this information it's impossible for me to establish what portion of these costs it's fair to ask them to cover. Ultimately, I think Aviva has acted unfairly here. And in the absence of any information to help me reach a reasonable settlement figure, I think the fairest thing to do is to ask Aviva to cover the cost of the entire quote. Which would mean paying Mr M a further £1,696.

As an aside – I've thought about the fact Aviva has since offered Mr M a boiler through their contractor at the same discounted rate. But ultimately, I don't think it's reasonable to expect Mr M to suffer the hassle of trying to arrange to buy and install a boiler separately. Particularly given the installer Aviva recommended at the time quoted at an incredibly high rate and then Mr M said it stopped answering his calls. Mr M paid for emergency home insurance on the understanding he would be dealing with one company who would arrange the works. And I think it's fair he now sources one alternative provider to do everything, even if this ultimately costs more.

So, I've then thought about the distress and inconvenience Mr M experienced because of this mistake. Mr M was without a boiler throughout the winter months. Mr M had an immersion heater, so this didn't impact his hot water, but it did mean he had to use electric heaters which would have been inconvenient and more expensive to use. And Mr M explained to both Aviva and our service that he had a very young baby at home. So, I do think this would have caused him extra stress and worry. I can also see Mr M spent time trying to resolve this with Aviva and sourcing quotes for alternative contractors which he wouldn't have had to do if the claim had been dealt with as per the terms of the policy. So, to put things right, I think Aviva should also pay Mr M a further £500 compensation, which fairly reflects the trouble and upset caused.

### **My final decision**

For the reasons I've given, I uphold this complaint. I direct Aviva Insurance Limited to pay Mr M an additional £1,696 to settle his claim and a further £500 for the distress and inconvenience Mr M suffered.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 20 July 2020.

Jade Cunningham  
**Ombudsman**