

The complaint

Mr P complains about his insurers Aviva Insurance Limited (Aviva), who wanted to charge him an excess policy fee under his home emergency policy. He thought that there should be no excess charge for a new call out as he believed it was a follow up repair.

What happened

In December 2018 Mr P experienced issues with his boiler and called Aviva. He paid the excess on his policy of £95 and Aviva sent an engineer. The engineer repaired the boiler but didn't change any parts.

In March 2019, Mr P contacted Aviva again and reported that he was experiencing the same issue with his boiler. Mr P asked if he would need to pay the policy excess fee as he believed that the policy terms suggested that the repair was covered by a 12-month guarantee.

Aviva told him that he would need to pay the policy excess as this would be classed as a new claim and not a continuation of the previous one. It also said that for it to be linked to the previous repair the fault would've had to have happened within 28 days of the last repair. So, as this didn't happen within the time frame, it would be classed as a new claim.

Mr P complained as he said that the repair done in December 2018 was inadequate and according to Aviva's terms and conditions the repair would be covered with the guarantee. He said that there was no mention of the 28-day limit to cover reoccurring faults and the level of communication from Aviva had been poor. Mr P didn't pay the policy excess and so Aviva didn't send out an engineer.

Mr P instructed another boiler engineer, independent of Aviva in October 2019. He repaired his boiler by replacing parts among other things. Mr P said that the engineer told him that there had been corrosion and that it hadn't been properly cleaned from the previous repair. So, Mr P wanted a refund of the policy excess paid because he felt that the repair in December 2018 and the fault he reported in March 2019, were linked.

Aviva asked Mr P for evidence that would show a link between the two and apologised for the poor communication. However, as Mr P didn't provide the evidence it requested, it wouldn't refund Mr P's policy excess fee.

Mr P was unhappy with its decision and brought the complaint to the service.

Our investigator didn't uphold the complaint. He said that Mr P didn't show that there was a link between the repair in December 2018 and the second reported fault in March 2019. He said that the work carried out in December 2018 and that in October 2019 weren't the same. And he concluded that Aviva were entitled under the terms and conditions of the policy, to charge a policy excess.

Mr P didn't agree with our investigator. He said that Aviva had failed to provide him with good service because its engineer didn't provide an accurate report of his work and this was where the confusion arose. He said that Aviva had told him that the work was covered by a 12 month guarantee and so he shouldn't have to pay another policy excess fee. He said that the 28-day limit clause for reoccurring faults was nowhere to be found in its terms and conditions and it was unfair for Aviva to rely upon a term that didn't exist.

Mr P asked for a decision from an 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.

Having done so, I won't be asking Aviva to do anything more to resolve the complaint. I realise this will be a disappointment to Mr P, but I hope my findings go some way in explaining why I've reached this decision.

I note that Mr P has made a few detailed points, which I have read and considered. I hope the fact that I don't respond in similar detail here won't be taken as a discourtesy. As an informal dispute resolution service, we are tasked with reaching a fair and reasonable conclusion with the minimum of formality. In doing so, it isn't necessary for me to respond to every point made, but to concentrate on the nub of the issue.

Repair in December 2018 and October 2019

Both parties accept that a repair took place in December 2018, the issue is whether that repair can be linked to the fault that Mr P reported in March 2019. Mr P said that he experienced the same issue that he reported in December 2018. Mr P said that he wasn't happy with the engineer at the time as he felt the engineer didn't seem to be able to assess the problem. Despite this, Mr P accepted that the engineer resolved the issue with his boiler and so carried out a repair without replacing any parts.

Aviva has said that for a few months the boiler was working well until Mr P reported the second fault. When Mr P reported that fault, Aviva relied upon a 28-day limit to cover recurring faults. Mr P says that this clause wasn't contained within Aviva's terms and conditions of the policy. I have read the policy document and I agree. Although we can't comment on how a business operates, we can look at whether it has acted fairly and reasonably in the circumstances of a complaint.

The term and condition of the policy that relates to the guarantee period states:

“Under this policy, the workmanship and any part(s) used by us to solve the problem will be guaranteed for a period of twelve months from the date the work is carried out.”

Both parties accept that no parts were installed during the repair that took place in December 2018. I think that the guarantee applies to both workmanship and parts, but I haven't seen evidence that the workmanship on the December repair was at fault. So, even though the 28-day limit isn't contained within the terms and conditions, I think that Aviva has acted reasonably when it said that the guarantee didn't apply to the second potential claim in March 2019, as no parts were replaced in December 2018. Also, the workmanship alone isn't guaranteed without parts being replaced.

Aviva asked Mr P to provide evidence that the issue in March 2019 was a continuation of the fault in December 2018. Mr P didn't provide this additional evidence and I can see that he was content to be talked through a 'self-fix' by Aviva when he reported the problems he was experiencing. So, I think Aviva were reasonable in requesting payment of a further policy excess fee before sending another engineer in March 2019.

Engineer's reports

I have next looked at the engineer's reports. Aviva provided the report for the repairs in December 2018, whilst Mr P has provided the report for the repairs that took place in October 2019. Mr P said that the issue that happened in December was the same issue his boiler experienced in March. But he hasn't provided any further evidence that could support this. Unfortunately, without any evidence to the contrary, that could support his position, I can only proceed on what has been presented. From the reports I can see that there aren't similarities between the two repairs. Not least because several items were replaced in October and no parts were replaced in December.

Also, the amount of work done in the October repair I think showed a more extensive repair in that seals and other parts were changed. Sections of the boiler were cleaned, and testing was done. Conversely the repair in December primarily adjusted flow rates of the boiler and as Mr P said cleaned parts of the boiler. So, I am persuaded that the repair in December amounted to mainly maintenance (as Aviva had said) whilst the repair in October was far more of an extensive repair.

Poor communication

Aviva admitted that Mr P encountered difficulties in receiving a response from its claims manager, for which it has apologised. I have read the contact notes and I can see that despite this, Aviva did regularly maintain contact with Mr P via phone and letters to keep him updated. So, although he found it difficult to contact one person at Aviva, I am satisfied that Aviva did take steps to maintain contact with Mr P and keep him informed. So, I don't think I can reasonably ask Aviva to do any more.

My final decision

My final decision is that I don't uphold this complaint, for the reasons given.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 4 September 2020.

Ayisha Savage
Ombudsman