

The complaint

Mrs T complains that Aviva Insurance Limited is responsible for unfair treatment in connection with a home emergency insurance policy.

What happened

The Financial Ombudsman Service is bound by the Financial Conduct Authority dispute resolution rules ("DISP").

The effect of DISP 2.8 is that we can't consider a complaint if it is referred to us more than six months after the date on which the respondent sent the complainant its final response – unless the complainant's failure to comply with that time limit is due to exceptional circumstances or the respondent gives permission.

We can only deal with a complaint against one insurance company or other regulated financial firm at a time. In our final decision we name that company or firm, but we don't name any other party.

Mrs T had a policy in the name of a home assistance company. From at least 2017 Aviva was the insurance company responsible for dealing with claims.

The policy provided that Aviva would repair the boiler. Alternatively, if the boiler became beyond economic repair (BER), then Aviva would supply a new one free of charge. But if the old boiler was more than seven years old Mrs T would have to pay for the installation of the new one.

Aviva repaired the boiler in 2018 but when Mrs T wanted to let her house to tenants in December 2018, Aviva said the boiler was BER.

On about 24 January 2019 Mrs T paid £750.00. On 28 January 2019, Aviva supplied a new boiler and the home assistance company installed it.

On 15 March 2019 Mrs T complained to the home assistance company. She said it was asking her to pay a balance of about £463.06 for installation.

The home assistance company sent a final response dated 13 May 2019.

In June 2019, the home assistance company's solicitors sent a letter to Mrs T. In July 2019 the solicitors issued court proceedings against Mrs T. In August 2019 they got a county court judgement (CCJ) against her.

In November 2019, it was six months since the final response letter.

In January 2020 Mrs T made another complaint to the home assistance company. It sent a final response dated 23 April 2020. Mrs T brought her complaint to us on about 28 April 2020.

Our investigator said that the only part of the complaint which we could consider was the debt recovery action prior to the case being taken to court.

He didn't recommend that the complaint should be upheld. He was satisfied that the home assistance company acted reasonably in the way it went about recovering the debt prior to the case being taken to court.

Mrs T disagreed with the investigator's opinion in part. She asked for an ombudsman to review the complaint. She says, in summary, that:

- She complained that the installation charge was extortionate. She agreed with the investigator that this was not for consideration by us.
- The home assistance company has misdescribed the correspondence.
- If it had acted legally and professionally then this matter wouldn't have got to court, as they would've reached a payment agreement.
- The solicitors' letter dated 28 June 2019 had all the hallmarks of a scam.
- The CCJ (in default) was obtained in a very underhanded way.
- The home assistance company discontinued the claim.

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.

I don't think the letter of 11 February 2019 affects the outcome of this complaint because Mrs T's letter of 15 March 2019 shows that she knew the home assistance company was chasing payment. She gave a figure of £463.06 which is close to the company's figure of £463.07.

I don't consider that – in May, June or July 2019 - the company did anything to lead Mrs T to believe it wasn't pursuing its claim.

I'm familiar with the Practice Direction on pre-action conduct and with the protocols.

Mrs T received the solicitors' letter dated 28 June 2019. I accept that it contained a business name with which she wasn't familiar. But the letter said that if she didn't pay £463.07 then there would be court proceedings against her. So I'm satisfied that the letter gave enough information for Mrs T to understand the claim against her and the basis on which it was made.

It's not for me to say whether the court proceedings were correctly issued and served or whether the CCJ was obtained unfairly. There was a court hearing about that on 11 November 2019. I note that the home assistance company had filed notice of discontinuance. It later emailed the court asking for the CCJ to be set aside.

So overall, I don't find Aviva responsible for any unfair debt recovery action by the home assistance company. I don't find it fair and reasonable to direct Aviva to do any more in response to this complaint.

My final decision

For the reasons I've explained, my final decision is that I don't uphold this complaint. I don't direct Aviva Insurance Limited to do any more in response to this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs T to accept or reject my decision before 29 September 2020.

Christopher Gilbert
Ombudsman