

The complaint

Ms N's complaint is about the service she received when she made a claim under her home emergency insurance policy with British Gas Insurance Limited.

What happened

I issued a provisional decision on this matter in January 2021, part of which is copied below:

"Ms N made a claim in February 2019, as her downstairs toilet wouldn't flush. British Gas sent out one of its contractors who fitted a new part to the cistern. Ms N says that as the toilet was boxed in the engineer had to take out the toilet to carry out the repair. Ms N says he struggled to do this and it took a couple of hours for the job to be completed.

In April 2019, Ms N contacted British Gas again as there were foul smells coming from the toilet. She was concerned the contractor had not fitted the toilet back properly. She also said British Gas's contractor had damaged tiles around the toilet.

British Gas sent a contractor back out. He inspected the toilet and said there were no leaks or other problems. Initially British Gas said the drain must be blocked further down. However, later it said the foul waste pipe is buried under ground and the toilet is not connected to it, so the soil waste is going into the ground. British Gas says this was caused by poor installation.

One of our investigators looked into the matter. She initially upheld the complaint, as she thought it unlikely the problem had been ongoing since installation ten years earlier. The investigator recommended that British Gas carry out a lasting repair to the toilet to rectify the issue and pay Ms N £250 compensation for the inconvenience and the poor service.

In the meantime, Ms N arranged for an independent plumber to investigate the problem and he apparently told her the waste pipe connector was damaged and this was not due to how it was installed. He repaired the damaged pipe, resolved the problem with the toilet and replaced the tiles. The repairs cost £1,500.

Ms N thinks British Gas's contractor damaged the connector, when he took out the toilet and wants this cost reimbursed. Ms N has made a number of points in support of her complaint, which I've summarised below:

- *The toilet was installed around ten years earlier, when she moved into the property and she has never had any issues with smells until British Gas attended in February 2019.*
- *The engineer removed the toilet and then put it back, he did not raise any issue about how the toilet was installed or identify that it was not properly connected.*
- *British Gas's contractor insisted he had to remove the tiles to get behind the enclosed unit. She pleaded with him not to, as the tiles were no longer available to replace any damaged by doing this but he insisted this was the only way.*
- *Her contractor has told her this was not necessary and the British Gas contractor could have just pulled the toilet out from its grid, without disrupting the tiled box. He*

- could then have seen and fixed the rear pan connection, which was a minor problem.
- The same contractor came out three times (despite her asking British Gas to send a different contractor) and insisted each time that the problem was not with the toilet but a much more serious problem with the pipes behind the waste either behind the tiled box or under the floor that she was not insured against.

The investigator reconsidered the matter and recommended that British Gas reimburse the repair costs of £1,500, together with interest at our usual rate and pay £500 compensation for the trouble caused by its handling of this matter.

British Gas does not agree that it is responsible for the repair costs. It says its contractor didn't remove the toilet. It has provided photos taken during the repair which it says show that he removed tiles to access the cistern and it says he was able to replace the flush mechanism without removing the toilet. It relies on its contractor's notes of each attendance which says there was no leak from the toilet, there is just a smell coming from the ground as the waste pipe was open and this was an installation issue.

As the investigator was unable to resolve the complaint, it has been passed to me.

What I've provisionally 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.

There is a direct conflict of evidence about what happened at the first repair appointment. British Gas says it repaired the flush mechanism and the contractor was not required to remove the toilet to do so. British Gas's job sheet records that the contractor was there for an hour on 13 February 2019 and removed and repaired the flush valve. It has provided photographs which show the contractor was apparently able to make access behind the flush plate but also showing two tiles next to the toilet pan had been removed. They do not appear split or damaged in the photographs provided.

Ms N says the contractor took over two hours to complete the repair, as he had to take out the toilet as he could not access the flush mechanism and he had trouble doing this. And he damaged tiles while doing so. She thinks he damaged the pan connector while taking the toilet out. Ms N also says the British Gas damaged the tiles around the toilet. Again, there is little independent evidence of this.

I accept the tiles must have been damaged at some point, as ... the photographs Ms N has provided show clearly that some have been replaced, and do not match the tiles on the other walls in colour exactly. Ms N's contractor has said the toilet could have been removed without damaging the tiles. British Gas says it was not possible to repair the toilet without accessing it which meant some tiles were removed. It also says that the policy does not provide cover for repairing tiles damaged as a result, as it only covers the repair of the faulty part and accessing it.

While I note what Ms N's contractor has said, I am not persuaded there is sufficient evidence that British Gas's contractors damaged the tiles unnecessarily or negligently. It seems to me more likely than not that some tiles needed to be removed to be able to access behind the toilet and also the connector pan when Ms N's contractor was repairing that, given it was all boxed in.

As there is not enough evidence that the tiles were damaged and needed refitting due to something British Gas did wrong, I do not consider I can fairly ask it to pay for the retiling costs, as this is also not something that would be covered under the policy.

There is also a direct conflict of interest about what happened next and the cause of the bad smells. Ms N says the smells only started after the repair in February 2019. Ms N reported this and it was thought it might be because there was a blockage. British Gas came out and rodded the pipes and came back out a few days later to check for leaks.

At the first appointment it didn't apparently identify any problem with the waste pipe and the contractors reported that they had "rodded the gully that cleared the blockage which was causing the smell". However, at the last appointment said it was disconnected and had been like this since installation.

British Gas's contractor provided several notes to British Gas, including the following:

"there is nowhere you can fit the waste pan connector, because the soil pipe (stack pipe) can't be seen anywhere. It's buried deep in the ground, and no access, the toilet has been incorrectly installed from the beginning" and

"there is no leak nothing whatsoever in this toilet ... it's just a smell and this smell comes from the ground. The soil waste pipe in the ground is open.... It's a maintenance issue and nothing to do with BG. The smell has been there since they moved in."

However, I've not seen any detailed job sheet of the attendance April 2019 and the work and investigations done.

Ms N's contractor found the problem with the toilet, which was that the connection between the toilet pan and the waste pipe was split. He has said:

"following our investigation into your Ground floor WC cloakroom we found that the rear pan connection had split. Hence the foul Smell coming from your main sewer pipe. How this pan connector became damaged is up for debate but this was the problem and was not as you had been advised a problem with poor installation or a problem with the main sewer pipe under the floor. If a proper inspection had taken place simply by pulling the pan out from its back to wall grid, this minor fault could have been rectified very easily without destroying tiles. I confirm that I have replaced the rear pan connection and retiled the cloakroom for £1500."

Given that two sets of contractors, both apparently qualified to deal with such matters have provided such opposing opinions about the cause of the problem and the work required, it is extremely difficult for me to be sure which is correct. I have to therefore consider all the other evidence to determine which is most likely to be correct.

British Gas's contractors reported to it that the smells had been coming from the toilet ever since Ms N moved in 10 years earlier. However, there is no record of Ms N having told them this. And I note that the contractors have not commented in any of the job notes left with Ms N or provided to British Gas that there was a smell from the toilet prior to April 2019.

If the waste pipe had been unconnected and soil waste seeping into the ground for 10 years, one might expect some smell to have been present during the earlier appointments.

I also find it difficult to accept that British Gas rodded the toilet waste pipe but didn't notice it was disconnected. Overall therefore I think it is more likely than not that there was a crack in the connector pipe as Ms N's contractor has stated.

Her contractor doesn't state this was caused by British Gas and other than Ms N's belief that this was caused by them when working on the toilet, there is no other evidence to support this. However, a leak from the connector would have been covered under this policy and so I

consider British Gas should reimburse the cost of this repair.

Ms N has provided an invoice for this work which says he repaired this (which he said was a simple job) and re-tiled the boxed area for £1,500. However, I am not currently satisfied that I can make British Gas pay this amount.

I have already determined that the part of this invoice that is for the re-tiling is not payable by British Gas. I also note the invoice says the cost is £1,500 inclusive of VAT but this is not set out in the way I have seen on most other VAT invoices. Also, I note that in an email of July 2020, Ms N says no VAT was paid. The amount charged is also relatively high and so it would be reasonable to expect proof of payment and a proper VAT invoice.

I would therefore invite Ms N to provide further evidence in relation to this invoice, and provide proof of payment of it before I can make British Gas pay towards it. As the invoice provided includes the cost of tiling as well as repair of the toilet, Ms N will need to provide evidence of the cost of the toilet repair only. If Ms N is unable to provide such evidence, then I intend to ask British Gas to pay the equivalent of what it would have cost it to do the repairs.

As I consider the toilet should have been repaired by British Gas when Ms N first reported the bad smells and the failure to do so meant more appointments and she had to get her own contractor to do the work, I agree that some further compensation is warranted. I consider the sum of £175 to be appropriate.

My provisional decision

I intend to uphold this complaint against British Gas Insurance Limited and require it to do the following:

- reimburse the costs of the repairs to the toilet only (not the retiling), upon production of proof of payment of those costs, together with interest at 8% simple per annum, from the date Ms N paid these costs to the date of reimbursement; and*
- pay £175 compensation for the distress and inconvenience caused by its handling of the claim.”*

Responses to my provisional decision

I invited both parties to respond to my provisional decision with any further information they want considered. I also asked Ms N for some further evidence about the costs charged by her contractor.

British Gas has said it agrees that the repair of the connector pipe would have been covered by the policy and therefore also agrees that it should reimburse the cost of this repair. British Gas says the repairs to the toilet would have cost it £227.52 (consisting of three hours labour at £43.20 per hour and £60 for the closed couple cistern and VAT).

Ms N has not provided any further information or evidence about the costs charged to her by her contractor. She does not accept my provisional decision and has made the following points in response:

- British Gas says it didn't remove the toilet but it is clear it did, as the contractor's reports say he did.
- She does not accept that the tiling costs should not be covered. Do I expect her not to re-tile around the toilet? Would I want that in my house?

- She ended up with two different tile colours, in order to keep the cost down and acted reasonably, so it should be covered.
- I am more concerned about British Gas than the fact she has had to put up with terrible customer service and workmanship.
- British Gas should never be allowed to put people through what it put her through.

Ms N has provided a copy of a bank statement showing that on 28 May 2020 she transferred £1,500, which she says was the payment to her contractor for the work done.

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.

As set out in my provisional decision, I accept the tiles were damaged and had to be replaced. However, as the policy does not provide cover for repairing tiles damaged as a result of a claim, I can only require British Gas to pay the cost of replacing them, if they were damaged as a result of some wrongdoing by British Gas.

The dispute therefore is about whether the repairs to the toilet could have been done, without damaging the tiles. Ms N's contractor has said the toilet could have been removed without damaging the tiles, whereas British Gas says it was not possible to repair the toilet without accessing it, which meant some tiles were removed. It also said it didn't remove the toilet but whether it did or not, I don't think it makes a difference to the outcome. I noted what Ms N's contractor has said in my provisional decision, but overall I did not think there was enough evidence that British Gas's contractors damaged the tiles unnecessarily or negligently. I remain of this opinion because it still seems to me more likely than not, some tiles needed to be removed to be able to access behind the toilet and carry out all the repairs necessary, given it was all boxed in. I therefore remain of the opinion that British Gas is not responsible for the cost of re-tiling.

I did provisionally decide that British Gas should have covered the cost of the repair of the toilet connector and I am pleased to note British Gas agrees with this. I set out in my provisional decision that I required Ms N to provide evidence of the cost of this repair and her payment of that cost, and the reasons why I was asking for that.

Ms N provided a copy of a bank statement which she says proves she paid her contractor £1,500 for the repairs, in line with his invoice. The bank statement shows Ms N transferred £1,500 on 28 May 2020 to a different account. However, the reference of the account that the transfer was going to is Ms N's first name. This therefore only proves that Ms N made a transfer of £1,500 to another account in her name and not any payment to a third party. In addition, the invoice was dated 9 June 2020 and the transfer pre-dates this. However, even if I were satisfied this proved Ms N had paid her contractor £1,500, as stated in my provisional decision, this amount includes the cost of tiling, for which I don't think British Gas is responsible.

I also asked for further information about the amount Ms N was charged because the invoice says the total cost was £1,500 including VAT, but it is not set out in the way it should be, to be a valid VAT invoice. And, as mentioned in my provisional decision, in an email of July 2020, Ms N says no VAT was paid.

I said in my provisional decision that if Ms N is unable to provide the evidence I asked for, I intended to ask British Gas to pay the equivalent of what it would have cost it to do the repairs. As Ms N has not provided that further evidence, I think it is reasonable for British Gas to pay what it would have cost it to complete this repair. It has said this would have

been £227.52. As I do not know exactly when Ms N paid for this work, I think it would be fair for the interest to be added from 1 June 2020, which is approximately when the work was done.

Neither party has made any further comment on the compensation I proposed, so I see no reason to change my provisional decision that the sum of £175 compensation is also appropriate.

My final decision

I uphold this complaint against British Gas Insurance Limited and require it to do the following:

- pay Ms N £227.52 for the repairs to the toilet, together with interest at 8% simple per annum, from 1 June 2020 to the date of reimbursement; and
- pay £175 compensation for the distress and inconvenience caused by its handling of the claim.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms N to accept or reject my decision before 18 April 2021.

Harriet McCarthy
Ombudsman