

## The complaint

Mrs K complains about the service provided by British Gas Insurance Limited (British Gas) under her home emergency policy.

## What happened

Mrs K held a home emergency policy with British Gas that provided repairs in the event of breakdown or damage to the boiler, central heating system and plumbing and drains. It also included an annual service of the boiler.

In August 2020 Mrs K had an appointment for an annual service of her boiler, the first service since October 2018 (although the policy notes that annual services may be more than 12 months apart). But the engineer did not keep the appointment. The service was re-booked for September 2020, but the boiler broke down a few days after the original appointment. An engineer visited Mrs K's home the following day and inspected the boiler. He concluded that the boiler was beyond economical repair due to a fault with the heat exchanger. The engineer also stated that the boiler failure wasn't covered under Mrs K's policy and referred to a comment made about the boiler at the time of the previous service in October 2018 that said "*Recommend new boiler with a Powerflush*".

Mrs K took issue with British Gas declining her claim and subsequently cancelling her policy. Following the cancellation Mrs K engaged her own engineer to install a new boiler, which they did in September 2020. As part of the installation the engineer took water samples from the central heating system to test the water quality. He concluded that the water quality was good. Subsequently Mrs K had the water sample tested independently by a specialist firm, which concluded that the water quality met the relevant standard.

Mrs K complained to British Gas about their decision to decline her claim and cancel her policy, maintaining that they had failed to deliver the boiler service element of her policy for nearly two years and by not repairing the boiler when it broke down. She also maintained that water quality was not the cause of the breakdown.

In September 2020 in their Final Response Letter, British Gas confirmed the decision to reject Mrs K's claim for repair to the boiler, notwithstanding their initial indication that they would honour the claim. British Gas also stated that the fault with the heat exchanger was, as a water carrying element, linked to the recommendation of their engineer in October 2018 that Mrs K have a 'Powerflush' of their central heating system due to sludge and/or blockages in the system. British Gas referred to the terms and conditions of the policy that, under the section headed 'Making any improvements':

*"If we've told you that an improvement is necessary, we may not continue to make repairs on that part of your boiler, appliance or system unless work has been carried out."*

British Gas also confirmed their decision to cancel the policy (with effect from the date of their engineer's visit in August 2020) based on a separate section of the

policy terms and conditions, headed 'When we can cancel', that referred to one condition [when]:

*"We tell you to make permanent repairs or improvements, but you don't."*

British Gas did acknowledge that an annual service of the boiler had not been carried out during the period of cover for the year to June 2020. They acknowledged that they had not contacted Mrs K to arrange the service (neither had Mrs K contacted British Gas to arrange it). While the policy terms and conditions did not provide for a refund of premium when an annual service wasn't carried out, they offered £65 to Mrs K in respect of the missed annual service.

Mrs K was unhappy at the outcome of her complaint and complained to this service in October 2020. The main points of her complaint were that British Gas had failed to provide the boiler service under the provisions of her policy, and that they shouldn't have declined to repair her boiler. Mrs K asked for reimbursement of the cost of a new boiler (£2,450), refund of the policy premiums between November 2018 and August 2010 (£420) and the cost of the independent test of water quality (£33). Mrs K was also unhappy at the terms and conditions of the British Gas policy that required customers to have a Powerflush of their central heating system.

Our investigator did not uphold Mrs K's complaint. The investigator concluded that while Mrs K disputed whether a Powerflush was discussed or required, the boiler could not have been repaired because of the non-availability of parts. And under the terms and conditions of the policy, the age of the boiler meant that British Gas would only have been liable for repair of the boiler, not its replacement. Based on these considerations the investigator concluded that he couldn't ask British Gas to do anything. The investigator also thought that British Gas's offer of £65 for the missed annual service was fair.

Mrs K disagreed with the investigator's conclusions and requested an ombudsman review the complaint.

### **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.

My role here is to decide whether British Gas has acted fairly towards Mrs K.

The main element of Mrs K's complaint is that British Gas unfairly declined her claim for repair to the boiler, and that they should pay for the cost of a replacement boiler.

With respect to liability for repair to the boiler, there are two aspects that I've considered. First, the rejection of Mrs K's claim because of her not carrying out a Powerflush that British Gas maintain they recommended at the time of their engineer's visit in October 2018 (the last recorded visit before the breakdown in August 2020).

I've considered the evidence on this point. I've noted that the note left by the engineer on the October 2018 visit stated that:

*"Recommend new boiler **with** a Powerflush".*

I've looked again at the terms and conditions of the policy and under the 'What's not covered' section they include a statement:

*“Damage caused by limescale, sludge or other debris – if we’ve told you before that you need to carry out repairs, improvements or a British Gas Powerflush or a similar process, but you haven’t done so.”*

While there is some ambiguity in the engineer’s comment as to whether the Powerflush was recommended as part of (**‘with’**) a new boiler being fitted (as opposed to a Powerflush being recommended irrespective of a new boiler being fitted) I think on balance that this is consistent with the reference in the terms and conditions to being *‘told you before that you need to carry out...a British Gas Powerflush or a similar process’*. I’ve also noted the evidence from British Gas from their service records include, in respect of the October 2018 visit, a note that states “advised on flush”. So I’ve concluded that British Gas did tell Mrs K about the need to carry out a Powerflush. And as there is no evidence or indication that this was carried out, then the terms and conditions extract about damage caused by limescale, sludge or other debris would be applicable.

I’ve also considered the issue that Mrs K maintains that the evidence from the test of the sample of water she commissioned when the new boiler was installed shows that there was no issue with the quality of the water in the central heating system. Her engineer has confirmed that the sample was taken before the installation of the new boiler. Based on this Mrs K maintains that there wasn’t an issue with limescale, sludge or debris and therefore a Powerflush was unnecessary and British Gas should not have rejected their claim to repair the boiler for that reason.

British Gas maintains that, based on their service records, there were issues with sludge over the years that they covered Mrs K’s boiler and heating system. They point to draining of the system in 2015 and the replacement of various parts that are affected by the flow of water, as well as the addition into the system in 2018 of specialist cleaning fluid designed to remove sludge, scale and debris. British Gas also noted that their engineers had advised replacing the boiler, due to its age, since 2013. They also argue that the results of the water test carried out by the firm engaged by Mrs K are not conclusive evidence that the system did not require to be flushed. In addition, in response to queries raised by our investigator, British Gas have stated that their engineer saw sludge in the system during his visit in August 2020.

Considering all these points, on balance I’ve concluded that the need for a Powerflush was discussed with Mrs K and I’ve concluded that it was based on the engineer’s assessment of what was necessary to maintain the system in effective working order. While the evidence from Mrs K’s water test does not indicate an issue with water quality, I don’t think it shows that the advice for a Powerflush wasn’t appropriate at the point it was provided.

The second issue I’ve considered is that, notwithstanding the point about the appropriateness of the Powerflush advice and it not being carried out as the basis for the rejection of Mrs K’s claim and the cancellation of her policy, Mrs K maintains that British Gas should have repaired the boiler.

In their response about Mrs K’s complaint to this service, British Gas stated that they would not have been able to obtain some of the parts that would have been necessary for a repair to the boiler (to the heat exchanger) as they were obsolete and not available. British Gas have provided a schedule of the parts needed for any repair to show those that are available (the majority) and the two that were not. British Gas have also said that while they cannot directly evidence their trying to obtain those parts from alternative sources, they have described the standard process that they adopt in these circumstances. I’ve also considered the wording of the policy in this area, and noted that it refers to, under the heading ‘Replacement parts’:

*“We’ll try to get parts from the original manufacturer or our approved suppliers. We’ll try to provide replacements with similar functionality but not necessarily the same features or an identical make and model or type of fitting...”*

*If we can’t get hold of the parts we may need to cancel your agreement (or part of it)...*

*If we’ve agreed to cover a boiler or appliance but warned you that it might be difficult to find replacement parts, we’ll do what we can, within reason, to fix it.”*

While that isn’t conclusive evidence that the parts (or alternatives) couldn’t have been obtained and the repair couldn’t have been made, it does indicate that there isn’t an absolute guarantee that a repair will always be possible.

I’ve also noted that Mrs K told our investigator that she knew that parts were becoming difficult to obtain and so she decided to replace the boiler rather than attempt to repair it. The implication of this is that she didn’t ask the engineer that installed the new boiler whether the old boiler could be repaired, which would have confirmed whether the necessary parts (or alternatives) were available and therefore whether a repair would have been possible.

Based on these factors, I’ve concluded that British Gas’s position about the feasibility of a repair is reasonable, and that there is doubt that a repair could have been carried out.

With respect to liability for the cost of a new boiler, I’ve looked at the terms and conditions of Mrs K’s policy, specifically the circumstances in which British Gas would pay for a replacement boiler. I’ve noted that the ‘What’s covered’ section states that:

*“A replacement for your boiler if we can’t repair it and:*

- *It’s less than seven years old*
- *Or, it’s between seven and ten years old, we installed it and it’s been continuously covered by British Gas under either a warranty or HomeCare agreement*
- *Or it caught fire or exploded, providing you gave us access to carry out your annual service within every period of agreement since we first covered you.”*

The evidence from British Gas is that the model of Mrs K’s boiler went out of production in 2005, indicating that it was at least some 15 years old at the time of the breakdown in August 2020. So I’ve concluded that as none of the above conditions apply, British Gas would not have been liable to replace the boiler, were they unable to repair it.

Regarding the missed annual service, and Mrs K’s request for a refund of premiums, I’ve noted that while British Gas have no record of having contacted Mrs K for the service to be carried out there’s also no indication of Mrs K having contacted British Gas to arrange a service. I’ve noted that the policy is intended to provide repairs in the event of breakdown or damage to the boiler, central heating system and plumbing and drains. It also includes an annual service of the boiler. The premium for the policy is not broken down into elements, so it’s not possible to determine exactly what part of the overall premium relates to the annual service. Looking at the renewal notice for Mrs K’s policy in May 2020, the premium for the year to June 2020 (the period for which the annual service was missed) the overall premium was £228. In this context, I think that a compensation figure of £65 for the missed service is reasonable, as it would be one element of the policy.

Mrs K also raised concerns about the terms and conditions of her policy relating to advice or recommendations for a Powerflush, and by implication the consequences under the policy

terms where such advice or recommendations are not followed. I think there are two aspects to this issue. First, whether the terms and conditions are clear about the requirements, and the potential consequences if those requirements (for a Powerflush) are not met. Looking at the wording of the policy, I think the requirements and the potential consequences are clear, for example the reference to:

*“If we’ve told you that an improvement is necessary, we may not continue to make repairs on that part of your boiler, appliance or system unless work has been carried out.”*

Similarly, I think it’s clear that not carrying out work when told about it may lead to cancellation of the policy.

The second aspect is whether those requirements, and the consequences of not meeting them, are themselves unfair or unreasonable. I’ve concluded that it isn’t unreasonable to give advice or make recommendations with the aim of maintaining a system in good working order, or to reduce the risk of problems occurring in the future. I also don’t think it’s unreasonable that not following advice given or recommendations made should be considered where they may have a bearing on future problems or determining the cause of those problems. So I don’t think the inclusion of these terms and conditions is either unclear or unreasonable. And it is for the policyholder to determine whether the policy is appropriate for their needs.

### **My final decision**

For the reasons set out above, my final decision is that I partially uphold Mrs K’s complaint and I require British Gas Insurance Limited to:

- pay Mrs K compensation of £65 for the missed annual service.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mrs K to accept or reject my decision before 10 May 2021.

Paul King  
**Ombudsman**