The complaint

Mr and Mrs R, through their representative Ms W, complain that British Gas Insurance Limited (BG) has rejected their claim under their BG HomeCare policy for a replacement boiler when their old boiler was condemned.

What happened

This complaint arises from an incident on 27 November 2019. During an annual service visit to inspect Mr and Mrs R's warm air unit, BG's engineer turned off the boiler. When he restarted it, there was a blowback and accumulated dust caught fire. The fire service was called. They removed a side panel which exposed the boiler's flue collector. Access to this panel was usually restricted by wall cupboards, so no previous inspections of it would've taken place. The flue collector was seen to have a crack, and there was black residue on the side panel. BG condemned the boiler. Ms W has said it was around 20 – 25 years old.

Ms W argues that the crack was caused by the fire. She's referred to the terms of Mr and Mrs R's HomeCare policy, which states that BG will provide:

> *"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".*

Ms W argues that the third bullet point above applies in this case. BG has provided annual services every year, so BG should replace the boiler.

BG says that this provision of the policy doesn't apply. It says its investigation has shown that the damage to the flue collector was a result of its age and wasn't caused by the fire. As the fire wasn't the cause of the crack in the boiler, and therefore to it being condemned, BG isn't responsible for the boiler's replacement. In addition, BG says that the annual service was carried out in accordance with regulations and its processes, and the fire wasn't a direct result of any work carried out by its engineer while completing the service.

Ms W sought advice from a company specialising in fitting and servicing boilers for warm air heating systems as BG don't fit these. She asked if heat could cause a crack in the flue collector. The company advised that the crack could not have been present on previous services as the smoke test carried out at the service would've allowed fumes to escape through the crack which would've been detected by Mr and Mrs R's carbon monoxide detector, which BG had installed.

This company said that there couldn't have been a crack in the flue collector prior to the fire. If there had been, carbon monoxide would've leaked each time the boiler ignited, which was daily as it heats water and the warm air heating system.

BG provided a detailed analysis explaining why it doesn't believe that the fire was responsible for the crack. It says that the flue collector was already suffering from corrosion due to its age. It pointed out an area of bubbling above the crack which it says is consistent with signs of corrosion which would have weakened this area of the unit. It says there's insufficient evidence to support the conclusion that the crack was as a direct result of the ignition/blowback, and that it's more likely that there was a smaller crack present before the fire which could've opened up further.

BG says the unit was condemned not as a direct result of the fire or blowback but because of the crack, which itself was not a direct result of the fire. It was due to corrosion and/or a crack which had been present before the fire and therefore BG isn't liable for the cost of a replacement under the clause which Mr and Mrs R are relying upon.

Mr and Mrs R brought a complaint to this service. Our investigator's view was that Mr and Mrs R's policy is sufficiently wide to cover a crack occurring as a result of a blowback or fire and that the evidence available made it more likely that one of these caused the crack to occur. The elements for a successful claim were therefore fulfilled. His view was that BG should provide a replacement boiler.

BG doesn't agree with our investigator's view and has asked that the complaint be considered by an ombudsman. It's therefore been referred to me for a final decision from this service.

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'm upholding Mr and Mrs R's complaint and I'll give my reasons.

This is a very technical dispute and the views of a number of specialists have been provided which has been helpful, although they differ in their conclusions. There's no evidence either way that's conclusive as to the existence of a crack on the flue collector before the fire as it wasn't visible until the cupboards blocking access to it were removed by the fire service.

I've considered the section of the policy on which Mr and Mrs R rely which I've quoted above.

It's not disputed that there was a blowback and fire in the boiler when BG's engineer re-lit it. Nor is it disputed that annual services were carried out by BG each year. An insured event therefore occurred. Although it doesn't say as much, I think the policy wording must be interpreted as requiring some causative link between the fire and the crack which led to the boiler being condemned. I consider that it's for BG to prove that there's no causal connection because the crack was already there and wasn't caused by the blowback or the fire.
No evidence has been provided by BG that the flue collector was already cracked on 29 November 2019. I therefore need to form a view as to what is more likely than not to have caused the crack, and when.

I think it can be said on the balance of probabilities that the boiler, which was over 20 years old, was corroded and therefore vulnerable. BG has pointed to the bubbling of the metal in the vicinity of the crack, suggesting weakening. That being the case, the blowback and/or the fire could've been all that was needed to create a crack. Excessive force wouldn't have been needed. BG has accepted in communications with our investigator that this was certainly a possible explanation. This view is supported by the failure of Mr and Mrs R's carbon monoxide detector to sound.

If there had been an existing crack, particularly of the size shown in the photographs provided, I consider it probable that this would've allowed the escape of carbon monoxide which would've been detected by Mr and Mrs R's carbon monoxide detector, which BG had installed and had replaced in March 2019, only eight months before. BG has provided various explanations as to why the carbon monoxide detector might not have detected the presence of carbon monoxide. They have said that only "bad combustion" causes carbon monoxide alarms to be activated, and that wind conditions can cause carbon monoxide that might otherwise have come through a crack to be drawn instead up the flue.

I don't find these persuasive. Given the age of the boiler, I'm not persuaded that the combustion would've been sufficiently good so as not to pose a risk of the boiler producing carbon monoxide, and wind conditions change constantly. This boiler was in daily use, and if there had been a crack before 27 November 2019, I consider it more likely than not that at some point the carbon monoxide detector would've identified carbon monoxide if there was a crack through which it could escape.

Reference has also been made to a smoke test, conducted at the annual service visit. No smoke was observed coming from any crack during the test in 2019. I don't consider a single test as being conclusive evidence that there was no crack. The installers of Mr and Mrs R's new unit have said that that it's not guaranteed that smoke would have come out of the crack due to its location. And BG has itself said that wind conditions can affect the path that fumes might take.

I'm therefore of the opinion that it's more likely than not that the crack wasn't present before the service visit and that there was a causal connection between the blowback and/or fire and the crack which led to the boiler being condemned.

I therefore consider that the policy term requires that BG replace Mr and Mrs R's boiler although I don't consider that BG is to blame for the crack given the vulnerability of the boiler due to its age.

Mr and Mrs R have already replaced their warm air unit. A "like for like" replacement, with the warm air unit being linked to a water cylinder, wasn't available until January 2020. As they needed hot water before then, they replaced it with another model which had a combined water heating system that makes their water cylinder redundant. This cost them £8,336.40 (including VAT). Our investigator was informed by the company that supplied this that it would've cost Mr and Mrs R around £200 more than the "like for like" replacement.

Mr and Mrs R also had to pay £469.20 for the removal of asbestos in the flue, without which the new unit couldn't be installed. I don't think BG should be required to pay the cost of removing asbestos from the flue as BG isn't responsible for it being there.

BG has said that its suppliers of warm air units would've charged it £3,266.40 (including VAT) for the latest model of the unit it was replacing and £600 (including VAT) for a flue – a total of £3,866.40. This doesn't include the cost of fitting, and BG doesn't fit such units.

But if BG were to pay Mr and Mrs R for the supply and fitting of the latest version of their old boiler, Mr and Mrs R would be put into a better position they would've been in had their boiler not been condemned, as they would have a new boiler instead of one that was over 20 years old. As I don't consider that BG is to blame for the crack occurring, I don't consider this is fair to BG.

My conclusion, which seeks to achieve a fair outcome, and recognises the lack of substantial fault on the part of BG and the fact that Mr and Mrs R now have a new boiler to replace one that was over 20 years old, is to require BG to pay Mr and Mrs R £3,866.40. This is the cost to it of a replacement unit and flue and excludes any costs of installation which in other circumstances BG would also have to bear.

I also agree with our investigator that compensation of £100 is fair and reasonable for the stress and inconvenience suffered by Mr and Mrs R in having their claim rejected and having to pursue a fair outcome through this service.

My final decision

For the reasons I’ve given above, I’m upholding Mr and Mrs R’s complaint.

I require British Gas Insurance Limited to pay Mr and Mrs R the sum of £3,266.40 towards the replacement of their boiler.

I also require it to pay them compensation of £100.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mrs R and Mr R to accept or reject my decision before 8 July 2021.

Nigel Bremner
Ombudsman