

## The complaint

Mr D and Mrs D complain that British Gas Insurance Limited has turned down their claim on their home emergency insurance policy.

## What happened

Mr D and Mrs D took out a home emergency insurance policy with British Gas on 2 November 2019.

Around three weeks later Mr D and Mrs D had a problem with their electricity. British Gas arranged for an engineer to visit on 25 November. But before then, Mr D says he called in a local electrician to see if the fault could be fixed. He says the local electrician did nothing, other than advise the fault needed more investigation.

On his visit on 25 November, British Gas' engineer said the fault wasn't covered by Mr D and Mrs D's policy. His report, which is recorded on British Gas' engineers' log, said "*3rd party damage*".

The reason behind the engineer saying what he did in his report is that Mr D and Mrs D's policy had a condition about work done by third parties. It said if anyone other than British Gas carried out any work on Mr D and Mrs D's system and damaged it, or that work hadn't been completed properly, their cover didn't include putting it right.

Mr D and Mrs D were unhappy when British Gas told them the work needed to fix the fault wouldn't be covered by their policy. So they complained to British Gas.

A second engineer visited Mr D and Mrs D on 13 December. His report, also recorded on British Gas' engineers' log said: "*New contract, 3rd party removed earths, customer said nothing was done by local sparky*".

Mr D and Mrs D arranged for British Gas to fix the fault on 27 January 2020. But they were still unhappy British Gas wouldn't cover the work under their home emergency insurance policy. A few days before the work was due to begin, a British Gas service manager spoke with Mr D and Mrs D by phone about their complaint. But what was said in that call is disputed.

On 27 January, a British Gas engineer visited Mr D and Mrs D to fix the fault. His report of the work he carried out said: "*rewire utility ring circuit surface in conduit*".

Following completion of the work, British Gas sent Mr D and Mrs D an invoice for just over £700. Mr D and Mrs D were unhappy with this and complained to British Gas. British Gas didn't uphold their complaint. It said its service manager had explained to Mr D and Mrs D there was a pre-existing fault not covered by the policy which British Gas had given a quote to fix. But on further investigation it said it found more upgrade work was needed. British Gas said its service manager had agreed this additional work would be carried out under the existing quote.

It's worth noting here that, as well as the condition about work done by third parties not being covered, Mr D and Mrs D's policy also said they wouldn't be covered for any pre-existing fault with their system or for any upgrades or improvements to their system.

Unhappy with this outcome, Mr D and Mrs D have brought their complaint to us. They say they have a legitimate insurance policy, so British Gas should pay for all of the work. Failing that, they say British Gas should honour the 50% discount they say it agreed to give them (this is something British Gas disputes). Mr D and Mrs D want their premium back. And they've expressed concern about a certificate of completion British Gas gave them for the electrical works.

The investigator who looked at Mr D and Mrs D's complaint didn't uphold it. He thought the work carried out wasn't covered by the policy. He thought this was because either the fault had been caused by a third party or the work done amounted to an upgrade or improvement to their system. In relation to the electricity completion certificate, our investigator said British Gas had said it would offer Mr D and Mrs D £30 in compensation as a gesture of goodwill for its delay in issuing it.

In my provisional decision of 5 March 2021, I explained why – like the investigator who looked at Mr D and Mrs D's complaint – I didn't intend to uphold it. But I said some of my reasons were different from our investigator's and so both Mr D and Mrs D and British Gas needed to have the chance to comment on them. I also said the rules about complaining to the ombudsman set out when we can – and can't – look into complaints. And I explained there were some parts of Mr D and Mrs D's complaint that in my view fell outside the jurisdiction of this service. I set out which parts of the complaint I considered we couldn't investigate.

In response to my provisional decision, Mr D and Mrs D have said they accept the £30 compensation British Gas has offered them for the delay in issuing the electricity completion certificate. British Gas says it agrees with my provisional decision. Mr D and Mrs D's complaint has now come to me for a final decision.

### **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've also considered whether we are able to look at certain aspects of this complaint.

Having done so, and for the reasons I gave in my provisional decision, I've decided not to uphold Mr D and Mrs D's complaint about their declined claim. And I've decided there are certain aspects of Mr D and Mrs D's complaint that I can't look at, as I'll set out below.

In my provisional decision, I looked at Mr D and Mrs D's complaint in two parts. I said:

#### **"Did British Gas act fairly when declining the claim?"**

*It's my current intention not to uphold Mr D and Mrs D's complaint about their declined claim. I know this will disappoint them but I hope the reasons I'm about to give help them to understand why, from what I've seen so far, I don't think the fault they contacted British Gas about was covered by their policy.*

*My starting point is Mr D and Mrs D's home emergency insurance policy. It has two exclusions (which I've mentioned already) that I think are relevant to Mr D and Mrs D's complaint.*

*The first is the one that said if anyone other than British Gas carried out any work on Mr D and Mrs D's system and damaged it, or that work hadn't been completed properly, their cover didn't include putting it right.*

*The second is one said that Mr D and Mrs D's cover was only for "repairing" or "replacing" their system. It didn't include any "upgrades". Under the policy terms this meant it wouldn't cover any improvements that made the system safer or more efficient.*

*From British Gas's engineer's log, the first two engineers who visited Mr D and Mrs D's home said damage by a third party had caused the fault. British Gas says "no earths were present in the accessories which meant they were cut out".*

*British Gas says when its senior engineer arrived at Mr D and Mrs D's home on 27 January to carry out the work, its service manager (the same one who'd spoken to Mr D the week before) asked the engineer to go back through the history and assess the installation again. British Gas said its engineer "confirmed that the installation was sub-standard and had been installed without earthing to various different points". British Gas says this meant it couldn't carry out the repair without adding new cables into Mr D and Mrs D's electrical installation. It says this was an upgrade under the terms of the policy. And, as I've already mentioned, this engineer's report said he'd carried out rewiring of a utility ring circuit.*

*One of Mr D's complaints is that British Gas changed its reasons for saying why the fault wasn't covered by the policy. First, it said it was third party damage, but then it referred to a pre-existing fault and the need for an upgrade. I can understand why Mr D and Mrs D felt some confusion. But from the information I've got, I think British Gas' assessment of the fault itself changed over time – it seems that, while the first two engineers attributed the damage to a third party, it wasn't until the third (more senior) engineer looked at the installation as a whole that he concluded it was sub-standard. By implication, this meant it needed to be upgraded by being rewired. And this is something Mr D and Mrs D's policy didn't cover.*

*My role here isn't to decide what caused the fault Mr D and Mrs D had with their electricity. It's to decide if British Gas acted fairly and reasonably in turning down their claim. From the outset British Gas' engineers said the fault wasn't covered by the policy. The reasons they gave for it not being covered have changed over time. But, as I've said, I think there's a reasonable explanation for that. Also, and in the absence – so far – of any evidence showing me the work Mr D and Mrs D had done wasn't an "upgrade" (as defined in the policy), I think British Gas was entitled to rely on what its engineers said had caused the fault.*

*It follows that, from what I've seen so far, I think British Gas has acted fairly and reasonably and in line with their policy terms in declining Mr D and Mrs D's claim.*

*Can we look at the disputes about whether a discount was applied to the work carried out, and about the completion certificate?*

*But this is only part of Mr D and Mrs D's complaint. As I've already said, there's a dispute between Mr D and Mrs D and British Gas about a discount they say was agreed for the work that was carried out. And they've raised concerns about the electricity completion certificate British Gas has sent them.*

*The Financial Ombudsman Service isn't free to look at every complaint that's brought to us. We're governed by rules set by the industry regulator, the Financial Conduct Authority (FCA). They're called the DISP rules and can be found in the FCA's handbook. They set out the complaints that we can (and can't) investigate.*

*One of those rules, DISP 2.3.1, says we can only consider a complaint if it relates to an act or omission by a firm in carrying out regulated activities, or any ancillary activities carried on by the firm in connection with them. I've thought about whether Mr D and Mrs D's complaint about the discount and the completion certificate is one we can consider under our rules.*

*My provisional decision on Mr D and Mrs D's complaint about their declined claim is that it wasn't covered by their home emergency policy. That means the work British Gas subsequently did for them wasn't done under a contract of insurance. It was done under a private contract.*

*Handing a claim under a contract of insurance is an activity that is regulated. It falls under "carrying out contracts of insurance", and therefore is covered under our rules. That's why we can look into Mr D and Mrs D's complaint about their insurance claim being declined. But a private contract between a company and its customer for works to be carried out, which is what Mr D and Mrs D entered into with British Gas after their insurance claim had been turned down, isn't a regulated activity, or an activity ancillary to something regulated.*

*So my provisional finding is that we can't look at Mr D and Mrs D's complaint about the discount and the completion certificate – because these things relate to work under a private contract, not a contract of insurance.*

*As our investigator noted, British Gas has offered Mr D and Mrs D £30 in compensation for its delay in sending them the completion certificate. If they'd like to accept this offer, they should let our investigator know."*

As I've mentioned, Mr D and Mrs D have said they accept the £30 compensation British Gas has offered them for the delay in issuing the electricity completion certificate, while British Gas says it agrees with my provisional decision. Having looked at this complaint again, I can't see any reason to change the conclusions I set out in my provisional decision. Those reasons therefore now form part of this final decision.

### **My final decision**

For the reasons I've given, I don't uphold Mr D and Mrs D's complaint about their declined claim. And, also for the reasons I've given, we can't look into Mr D and Mrs D's complaint about the discount and the completion certificate, because these things relate to work under a private contract, not a contract of insurance.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs D and Mr D to accept or reject my decision before 24 May 2021.

Jane Gallacher  
**Ombudsman**