

## **The complaint**

Mr A is unhappy with the way Amtrust Europe Limited (“Amtrust”) dealt with his claim when his boiler broke down.

The ‘SSE Heating Cover’ policy was administered by OVO (S) Home Services Limited on behalf of Amtrust, who are the underwriters of the insurance policy.

As Amtrust are the underwriters of the insurance policy, they are ultimately responsible for dealing with the complaint. For ease, throughout this decision I’ll refer only to Amtrust – but in doing so this takes into account those parties acting under Amtrust’s delegated authority.

## **What happened**

The circumstances surrounding this complaint are well known to both parties, so I won’t repeat them in great detail here. But broadly summarised, Mr A’s boiler broke down on 27 November 2020 (a Friday) leaving him with no hot water or heating. An engineer was arranged. The engineer attended and found the PCB gas valve and spark ignite generator faulty. They also found the expansion vessel and PRV were leaking from the high pressure. Mr A says the engineer said it was easily repairable and that he would come back on the Monday once discussed with the office.

Mr A says because of the time of year, and because his wife suffered from medical condition, he purchased two oil heaters to tackle the cold.

Amtrust, given the cost of the parts alongside the labour deemed that Mr A’s boiler was ‘Beyond Economic Repair’. That is to say that the cost of the parts required to repair the boiler exceeded the boiler’s current value based on its age and condition.

Mr A says Amtrust informed him that it wasn’t authorising the repairs on 30 November 2020 in a phone call and also cancelled his policy which he says Amtrust advised was in accordance with the terms and conditions.

Mr A says he refused the cancellation and insisted on a second opinion. Another engineer attended on 1 December 2020. The second engineer found the same faults as the first engineer but also reported that the electrodes were falling to pieces. Mr A says that he recollects the engineer advising that the boiler required a new expansion vessel and that the expansion vessel was too small for the size of the boiler but that it can be repaired.

Mr A says Amtrust then reluctantly agreed that the repairs could proceed. Mr A says he spoke with the engineer and the engineer advised on Wednesday 2 December 2020 that they could order the part. Mr A says he was told that the part would arrive Friday at the latest and the engineer would then ring to arrange a date to carry out the repair. Mr A says given the uncertainty and that he didn't want to be another week without heating and having lost faith in Amtrust he arranged for a replacement boiler to protect his wife's health.

Ultimately the boiler repair was cancelled, and Mr A sourced another replacement boiler through an independent company.

Unhappy with how things had been handled, Mr A complained to Amtrust. Mr A considers Amtrust should pay for the cost of his new boiler plus the installation costs.

Amtrust looked into the matter and offered Mr A £50 for the service Mr A had received.

Dissatisfied with Amtrust's response, Mr A referred the matter to our service. One of our investigator's looked into the complaint and didn't uphold it. In short, they considered Amtrust had fairly applied the terms and conditions of the policy in determining whether the boiler was 'Beyond Economic Repair'. And then it acted fairly by agreeing to the repairs which ultimately Mr A chose not to go ahead with. Our investigator thought Amtrust's goodwill offer of £50 was fair.

Mr A disagreed with the investigator's opinion. So, as the matter hasn't been resolved, it's been passed 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.

Having done so, I don't uphold this complaint. I'll explain why.

It is clear that Mr A, having spoken with the first engineer, was under the impression that the boiler could be repaired, and Mr A thought the repair could happen promptly.

But Amtrust were entitled to review the claim in accordance with the terms and conditions of the policy. So I've reviewed the Policy booklet – and the key terms and conditions applicable here, are as follows:

Under section "10. ADDITIONAL GAS PRODUCT EXCLUSIONS AND LIMITATIONS" it states:

*"10.5.*

*If spare parts are available but, in our opinion, your System is considered to be Beyond Economic Repair then we will offer you a contribution, at our discretion, towards a new boiler. This offer is only valid for 30 days from the date of our Engineer visit. We will either provide you with a discount in advance, or a contribution once you have provided proof (i.e. receipt/invoice) of a new boiler being installed within 60 days from when your System was deemed Beyond Economic Repair by our Engineer. We will let you know which one will be applicable at our Engineer visit. We must approve any contribution in advance of work being undertaken."*

In regard to the cancellation rights of the policy it states:

*“Our Termination Rights*

*16.14.*

*We may terminate your Agreement in the following circumstances if:*

*m) If your System is Beyond Economical Repair and you decline our contribution offer for a replacement boiler as explained in clause 10.5; or*

*n) If there is a Pre Existing Fault or System Deficiency.*

*16.15.*

*If we terminate this Agreement for any reason then the Product will cease immediately. We will advise you orally or in writing (whichever occurs first). We will follow up any oral notification in writing.*

*For the avoidance of doubt, you will be responsible for the cost of the Product until the date that the Product ceases and any charges as set out in this Agreement.”*

Certain terms, words and phrases have been further defined/explained within the policy. In this case “Beyond Economic Repair” is an important term and has been further defined within the policy booklet as:

*“...when we deem the cost of parts required to repair your boiler exceeds its current value based on age and condition...”*

So it is clear, that while Mr A considered that his boiler was repairable, and it seems the case that it was, the claim still had to be considered alongside the terms and conditions mentioned above. So when Amtrust initially looked at the repair costs following the engineer’s visit – it deemed that it was ‘Beyond Economic Repair’. Given the terms and conditions of the policy I can’t say that Amtrust had acted unfairly.

That said, after further discussions with Amtrust a second engineer did visit, with Amtrust taking the decision that it would go ahead with the repairs. I appreciate this delay would have been frustrating for Mr A, but Amtrust were importantly allowed to consider whether the boiler was ‘Beyond Economic Repair’ in the first instance. And ultimately the repairs were authorised by Amtrust.

Mr A has said given the delay and Amtrust first advising the boiler was Beyond Economic Repair and then agreeing to carry out the repair – and the engineer explaining when the parts were likely to arrive (Friday 4 December 2020) and the uncertainty about the appointment to carry out the repairs – he chose to get a boiler through another company.

I can understand Mr A wanting to act swiftly, but ultimately this was his choice. I am mindful that Amtrust had authorised the engineer to order the parts on Wednesday 2 December 2020, with the engineer advising the parts would arrive at the latest on Friday 4 December 2020. So Amtrust had agreed to the repairs, and Mr A ultimately chose not to proceed.

I appreciate that the terms and conditions advise that Amtrust would offer, where a customer's boiler is deemed as Beyond Economic Repair a contribution, at its discretion, towards a new boiler. However the terms state that Amtrust must approve any contribution in advance of the work being undertaken. So while I don't doubt that Mr A says he was told they would contribute approximately £400 or £250 if he used his own contractor – Mr A still needed to liaise with Amtrust about this prior to the work being undertaken and Amtrust had to approve any contribution prior the work being undertaken. This wasn't done here. So I don't find that Amtrust are at fault and don't direct it to pay anything further as it has acted within the terms and conditions.

With regards to the policy cancellation, the terms and conditions state when the policy can be cancelled and that Amtrust need to provide either oral or written confirmation. As Amtrust considered Mr A's boiler Beyond Economic Repair – Amtrust considered the policy should be cancelled and it advised Mr A of this over the phone. But ultimately Amtrust did then authorise the repairs which Mr A chose not to go ahead with, and as explained above Mr A hadn't approved a contribution prior to Mr A going ahead with a new replacement boiler – so I'm mindful that overall the cancellation of the policy was fair. And I note that Amtrust refunded the premiums Mr A had paid since the policy renewal on 11 November 2020.

Finally, I appreciate that Mr A is unhappy that the call recordings aren't available. And that is understandable. But through his testimony and all the available evidence there was enough for me to conclude whether Amtrust had acted fairly and reasonably and in accordance with the terms and conditions.

Ultimately, Amtrust were entitled to determine whether the boiler was Beyond Economic Repair prior to authorising any repairs. Amtrust, then in my opinion, acted fairly by choosing to go ahead with the repairs with Mr A ultimately choosing not to proceed by getting a replacement boiler in through another independent company. That was Mr A's choice, and while I understand his reasoning for doing so, I don't think it would be fair for Amtrust to pay Mr A the cost of the new boiler when he chose not to have the repairs on his existing boiler carried out. And as Mr A hadn't sought Amtrust's approval regarding a contribution in advance of the replacement boiler being purchased and installed, as set out in the terms and conditions, I don't find it liable for any additional contribution to the costs and that it was fair for the policy to be cancelled.

I note Amtrust offered Mr A £50, as a gesture of goodwill for the service Mr A received. This seems fair as I think the engineer's visits gave Mr A an expectation that his boiler could be repaired – when ultimately it turned out that while it was likely it could be repaired, Amtrust were entitled to firstly consider whether the boiler was in fact Beyond Economic Repair.

### **My final decision**

Amtrust Europe Limited has already made an offer to pay £50 to settle the complaint and I think this offer is fair in all the circumstances.

So my decision is that Amtrust Europe Limited should pay £50 if it hasn't done so already.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 23 September 2021.

Matthew Horner  
**Ombudsman**