

## The complaint

Mrs B has complained about the service she received from Astrenska Insurance Limited (AIL) under her boiler breakdown and home emergency insurance policy having been told that her boiler was beyond economic repair.

References in my decision to AIL includes its agents and contractors.

## What happened

Mrs B had a boiler breakdown and home emergency insurance policy with AIL. Her boiler had been fitted in 2018. AIL's contractor attended on 27 April 2021 to give the boiler its annual service. He noticed some rusty water and advised that there was a fault with the heat exchanger. He didn't continue with the service and told Mrs B she'd receive a report.

Mrs B says she contacted AIL's claims department on 30 April to check on the progress of the report on her boiler. She was told that her boiler was beyond economical repair (BER) and would need to be replaced.

There was no further communication until 6 May, when Mrs B chased AIL. By 11 May Mrs B still hadn't received the engineer's findings and confirmation of AIL's decision. She raised a complaint about the lack of communication and contact.

AIL investigated Mrs B's complaint and accepted that she hadn't been given clear concise information regarding the diagnosis, next steps, or the BER process.

The BER process is stated in Mrs B's policy to be as follows:

### ***"Beyond economic repair***

*Where your boiler is deemed beyond economic repair, we will pay a contribution towards the cost of a new boiler being installed. Once you send us an invoice from a qualified Gas Safe Contractor upon installation of a new boiler we will pay a contribution of £500, less any premium outstanding to us. A boiler can be uneconomical to repair for a number of reasons. These include:*

- The cost of parts (including VAT) to repair the main heating system is greater than 85% of the manufacturer's current retail price of a replacement or a similar model, it would cost more to repair the boiler than to replace it with a new one; or*
- New, genuine parts are no longer available to our suppliers;*
- The type of fault which has caused the boiler to fail and the extent of the repairs which will be required to fix it;*
- Any repair is only expected to result in a temporary fix and other faults are likely to occur shortly afterwards.*

*Any decision regarding whether or not it is economical to repair your boiler will be made by our contractor, using their knowledge and experience of similar boilers and faults.*

*You may find another contractor who will be willing to repair your boiler, and this is your choice. However, we would not be able to continue to insure your boiler, even if it has been repaired by someone else."*

Mrs B had been waiting for AIL to contact her whereas AIL had been waiting for Mrs B to contact it with evidence that her boiler had been replaced to enable it to calculate and issue the £500 contribution towards its replacement. As she wasn't aware of what was happening and as she didn't know the boiler was safe to use, she arranged for a private boiler service to be completed which cost her £80.

AIL accepts that following receipt of the diagnosis it should've called Mrs B to advise her of the findings and explain the next steps. AIL awarded her £100 compensation for the delays, lack of communication and inconvenience.

Mrs B also disputed AIL's assessment. She didn't believe that the boiler, which was only three years old, needed to be replaced, but she went ahead and purchased a new boiler. She wants AIL to provide a refund of the full boiler replacement cost. She arranged for an independent firm to assess the old boiler that had been replaced.

Mrs B's engineer's opinion was that there could've been a very minor problem with the heat exchanger and recommended that it be replaced in the near future, but it didn't recommend that the boiler be replaced as it was too new to be declared BER. It said it would've replaced the heat exchanger.

In response to this, AIL said that Mrs B's engineer had confirmed its own diagnosis that the problem was with the heat exchanger and that in the circumstances it was bound by the policy terms and conditions, whereas Mrs B's engineer was not. And the policy terms and conditions require a boiler to be declared BER if the cost of parts exceeds 85% of the manufacturer's retail price for a replacement boiler.

AIL has said that a new boiler of the same or similar model would be in excess of £1,000. It has estimated the cost of replacing the heat exchanger to be £1,190 + VAT. This is calculated as follows:

Cost of heat exchanger - £431.00 +VAT

Seals and gaskets - around £40.00 + VAT

Labour - £720.00 + VAT

(cost of boiler removal and full strip down and rebuild, boiler refitting and recommissioning and testing - 8 hours for one man and 4 hours for second person for lifting as per H&S regulations @ £60.00 + VAT)

Total cost -£1,191.00 +VAT

So AIL has said that because the cost of replacing the heat exchanger exceeds 85% of the retail cost of a new boiler of the same or a similar model, Mrs B's boiler was BER. Mrs B's own engineer has estimated that the cost of supplying and fitting a new heat exchanger would be about £850 including VAT.

As Mrs B wasn't satisfied with AIL's assessment, she brought her complaint to this service.

Our investigator's view was that she couldn't say that AIL was wrong to advise that Mrs B's boiler was BER and she didn't consider that there was an error in the way that Mrs B's claim had been processed.

Mrs B didn't agree with our investigator's view and asked that her complaint be referred to an ombudsman for a final decision from this service.

As I came to a different view to that of our investigator, I issued a provisional decision and received comments on this from Mrs B and from AIL which I'll refer to below.

### **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 considered AIL's response to my provisional decision, I'm continuing to uphold Mrs B's complaint and I'll explain why.

In its final response to Mrs B, AIL gave its reason for deeming her boiler to be BER. It said as follows:

*"The reason the boiler was deemed to be beyond economic repair was due to the cost of the part and labour versus the current value of the appliance. As it was found the repair costs exceeded 85% of the value of the boiler the beyond economic repair decision was made." (my emphasis underlined)*

This is an incorrect comparison. The relevant section of the policy, which I've quoted above, states that it is "*The cost of parts (including VAT) to repair the main heating system...*" that is to be compared with "*the manufacturer's current retail price of a replacement or a similar model*". In both cases the cost of labour is excluded.

In making its determination as to whether Mrs B's boiler was BER, AIL has added the significant labour cost to the cost of the heat exchanger itself. If it had not done so, a very different comparison would have been made. Based on the figures that AIL has itself provided, the cost of the heat exchanger (£431+VAT) is considerably less than 85% of the retail cost of a new boiler.

So if the BER assessment had been correctly undertaken, Mrs B's boiler would not have been BER.

That leads me to the view that Mrs B was encouraged to replace her boiler by being told that unless she replaced it, she'd no longer be covered by AIL's policy and no other insurer would cover her either. In my view she didn't need to replace her boiler. AIL should either have repaired it, or, as her boiler hadn't actually broken down and therefore a repair wasn't required as a matter of urgency, advised her that she should have it repaired in the near future although this might not be covered by her policy. Whilst the latter course might have cost her money, it would've been considerably less than the cost of a new boiler.

In response to my provisional decision, AIL said it disagreed with my finding. It said that it shouldn't be liable for the full replacement costs for Mrs B's boiler as it was her decision to replace it. It also said that Mrs B only disputed its contractors' findings after the boiler had been replaced, which didn't give it a chance to dispute the diagnosis with its contractors and enable it to undertake a repair. If I disagreed, its liability should not exceed what the repair costs would've been as Mrs B will continue to benefit from a new boiler.

Having considered AIL's submissions, I'm not persuaded by them. I don't consider that it was Mrs B's decision to replace her boiler. She'd been told by AIL that if she had a repair done by a third party she'd no longer be able to make a claim on her current policy, and she'd also be unable to buy cover elsewhere. So she was effectively tied to whatever decision AIL made about the repair of her boiler. AIL also had had the opportunity to consider the report from Mrs B's engineers which said that they would've replaced the heat exchanger and wouldn't have found it necessary to replace the boiler. AIL said that this confirmed its own engineers' diagnosis. So the diagnosis was not in dispute, but AIL says it was bound by the terms and conditions of the policy with regard to BER.

So I consider that Mrs B didn't act unreasonably in purchasing a new boiler given AIL's decision that the need to replace a heat exchanger rendered her boiler BER. And I don't consider it would be reasonable for Mrs B to only receive an amount equal to what the repair costs would've been, leaving her with a substantial financial loss which could've been avoided if AIL had correctly applied the BER criteria.

I'm therefore upholding Mrs B's complaint and require AIL to refund to her what she paid for the supply and fitting of her new boiler less any sum that AIL has previously paid to her, excluding the £100 compensation which I think it is reasonable for Mrs B to keep as compensation for AIL's accepted communication failures.

### **My final decision**

For the reasons I've given above, I'm upholding Mrs B's complaint.

I require Astrenska Insurance Limited to refund to Mrs B what she paid for the supply and fitting of her new boiler less any sum that AIL has previously paid to her, excluding the £100 compensation she's previously received.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 12 January 2022.

Nigel Bremner  
**Ombudsman**