

The complaint

Mr G is unhappy that AWP P&C SA declined a claim he made under his home emergency policy.

What happened

Mr G has explained that one night in August 2020 the electrics at his property stopped working. Mr G said he didn't have any paper documents for his home emergency policy to hand. And, his mobile phone battery was low – so he didn't want to risk going onto the internet to obtain the necessary details, in case the phone battery died completely and his was uncontactable. So, instead of looking for his insurance information and calling AWP, Mr G instead called a local electrician from his phonebook, to come and deal with the emergency.

Mr G said the electrician did come and deal with the matter. And following this, Mr G made a claim with his insurer, AWP, for his loss.

AWP declined the claim. It said that Mr G's policy required him to contact it first to deal with an emergency. And it said Mr G's policy made it clear that no refund would be provided if arrangements were made without prior authorisation from AWP.

Mr G felt this was unfair. So, he raised a complaint with AWP. It maintained its position, noting that the claim had been fairly declined. As Mr G remained unhappy with this, his referred his complaint to this service for an independent review.

When referring his case to this service Mr G said he felt AWP should have used some discretion in his case, given he was unable to obtain his insurer's details to contract it before dealing with the emergency at his home.

Our investigator reviewed this complaint and felt it should be upheld. They acknowledged that Mr G had breached the terms and conditions of his policy by getting his own electrician out, without authorisation from AWP. But in the circumstances, he felt it would be fair and reasonable for AWP to reimburse Mr G for the costs he incurred, but only up to the amount AWP would have paid to arrange the repair themselves, if it had been contacted initially as per the terms.

AWP disagreed. It said that it had acted in line with the terms and conditions of the policy, in declining the claim. In addition to this, AWP said that because it hadn't been contacted in the first instance, it hadn't been able to establish whether the claim was actually covered under the policy – because for example, there had to be a complete failure of the electrics for the emergency to be covered.

AWP also said that if Mr G was in the situation he'd described, it would've expected him to contact it later that day or the following day to make a claim – but Mr G didn't do this, he contacted it some time later.

Lastly, AWP said accepting the claim in this instance wouldn't be fair to other customers, and it felt that accepting Mr G's claim would set an example that it would do so in the future under the same circumstances, which it didn't think was reasonable.

Because AWP didn't agree, this claim has been referred to me to decide.

I issued a provisional decision on this complaint. In this I said:

"I've considered all of the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so, I'm intending to uphold this complaint in part. I've explained my reasoning for this below.

The relevant industry guidelines say an insurer must deal with a claim promptly and fair – and must not unreasonably decline it. Mr G doesn't feel AWP acted in line with this. So, I've considered his concerns.

The starting point for deciding whether a claim was declined fairly and reasonably is the terms and conditions of the policy taken out. This is the contract both parties agreed to when the cover was purchased.

Looking at the policy Mr G purchased, I can see there is cover for an emergency – with the definition of emergency including the loss of a home's main source of light. Mr G has said that his home did experience a loss of its light – with all the lights in the property not working. So, I'm satisfied, based on the information I have, that it's likely there was an emergency under which the policy would respond.

But I'm also aware the terms and conditions of the policy, under the 'making a claim' section, explain that:

"It is important to remember that you must phone Halifax Home Emergency First. Please do not make any arrangements yourself as we cannot refund any costs if you do not get out prior authorisation."

This is also explained in other areas of the policy, such as in the general exclusions section of the policy, which notes AWP won't pay for costs not authorised.

Given the above, I'm satisfied it's clear within the policy that Mr G needed to contact AWP first, before incurring any costs. This is so that AWP can check the policy covers the situation being claimed for and manage the costs for anything covered by the policy.

As this is the case, I recognise that AWP acted in line with the terms and conditions of the policy when declining Mr G's claim. However, my remit here is also to consider what is fair and reasonable in the circumstances of the case. And, based on what I've seen, I think it was fair and reasonable, on this occasion, for Mr G to call another contractor out to the property initially. And I think AWP should be providing a settlement in relation to this first visit.

I say this because there was, in my opinion, an understandable reason Mr G didn't contact AWP initially. And from the evidence I've seen, I don't think AWP's position in evaluating the claim was prejudiced, for this initial visit.

Mr G said when the light and power went out, it was during the night. And so, he didn't have his policy documents to hand, to call the claims line. He also noted that his phone battery

was low – with no ability to charge it. So, he wanted to make sure the only source of power he had – his phone, was working for as long as possible. With that in mind, Mr G contacted a contractor from his own phonebook. I can understand why Mr G did this, given the situation he was in.

Mr G obtained an invoice for the first visit from the contractor. It noted that the contractor needed to “replace switches, investigate RCD tripping.” This looks to be in line with the policy cover, which, as above, responds to a loss of the home’s main source of light. Given AWP had an invoice to review, which contained details of the relevant contractor and their contact information, I think AWP was in a position to move this element of the claim forward – it wasn’t prejudiced in this regard. So, I think the fair and reasonable thing here, is to accept the claim for this initial contractor call-out.

That doesn’t mean AWP should pay the full cost of the invoice Mr G provided though. The invoice Mr G provided was for £95. And I’m aware that it is possible the visit would have cost AWP less, depending on the commercial relationship it has with other contractors. Given that the terms of the policy, noting contact with AWP first is key, and that part of the reason for this will be to ensure costs are kept low, I’m satisfied it would be fair for AWP to pay Mr G what it would have cost it for the initial visit to the property. That means AWP isn’t spending more than it should have under the policy, and Mr G is getting the cover he paid for.

I’m aware there was a second visit to the property, by the same contractor – around 10 days after the first visit. The invoice for this visit says work on the property’s lights was completed, an unknown cable at the consumer unit was identified and reconfigured, a breaker was changed for the immersion heater and advice on safety issues was provided. This invoice was for a further £95. I don’t think it would be fair to ask AWP to pay for this work.

AWP says it wasn’t contacted until after this second visit. Mr G says he contacted AWP between the first and second visit and AWP didn’t seem interested in the matter. But he hasn’t been able to provide a date for when this happened. So, I haven’t seen any firm evidence this was the case. And both parties accept that there was no authorisation provided by AWP for the second visit.

I do also note that Mr G explained to this service “whilst I appreciate the second call out was not an emergency call out, at that point the electrician has already done most of the work. So it wouldn’t have been sensible or cost effective to bring out someone new.”

I’m satisfied that this second call out is different to the first. As above, I think the circumstances of the initial visit, and the lack of prejudice to AWP on that occasion means it would be fair and reasonable to deal with that element of the claim.

But in terms of the second visit, I think there was sufficient opportunity for Mr G to ensure authorisation was gained, before going ahead with it. And I can’t see firm evidence this was attempted. I also think there was a prejudice to AWP in Mr G going ahead with the work anyway.

AWP could have checked the policy cover during this time and decided whether to obtain its own contractor. And, I can see the second invoice discusses work unlikely to be covered under the policy – such as the reconfiguration of an unknown cable, work for the immersion heater, and safety advice. With this in mind, I don’t think it would be fair to require AWP to act outside of the terms of the policy for the second invoice. So, I don’t intend on requiring AWP to do anything in respect of this.

Given the above, my provisional decision is that I intend on partially upholding this complaint. I intend on requiring AWP P&C SA to:

- *Pay Mr G what it would have cost AWP for the initial visit to Mr G's property.*
- *Because Mr G has been without these funds, AWP should pay Mr G 8% simple interest on the above amount, from the date of the invoice (28 August 2020), until the date of settlement, less any tax properly deductible.*

If AWP P&C SA considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr G how much it's taken off. It should also give Mr G a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate."

Mr G responded to my provisional decision and agreed with it. AWP didn't respond.

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.

Neither party has provided me with additional evidence or comments to alter the provisional decision noted above. And so, my final decision remains the same as that of my provisional decision, and for the same reasons.

My final decision

Given the above, my final decision is that I partially uphold this complaint. I require AWP P&C SA to:

- Pay Mr G what it would have cost AWP for the initial visit to Mr G's property.
- Because Mr G has been without these funds, AWP should pay Mr G 8% simple interest on the above amount, from the date of the invoice (28 August 2020), until the date of settlement, less any tax properly deductible.

If AWP P&C SA considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr G how much it's taken off. It should also give Mr G a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 29 June 2022.

Rachel Woods
Ombudsman