

The complaint

Mr and Mrs W complain that British Gas Insurance Limited is responsible for poor service in connection with a home emergency insurance policy.

Where I refer to British Gas, I refer to the above-named insurance company and I include engineers and others insofar as I hold British Gas responsible for their acts or omissions.

What happened

In about October 2010, a company other than British Gas installed a gas central heating boiler in Mr and Mrs W's home. They say its manufacturer gave a warranty for ten years.

Notwithstanding the warranty, since 2010, Mr and Mrs W had a British Gas HomeCare agreement that covered the boiler. We categorise that as a home emergency insurance policy. But it covered more than emergencies. It covered an annual service. It also covered replacement of the boiler if it became unrepairable while it was less than seven years old.

In 2017, the boiler ceased to be less than seven years old.

The policy renewed for the year from late April 2020.

British Gas did its most recent annual service in July 2020.

In about October 2020, the boiler ceased to be less than 10 years old.

In March 2021, the boiler displayed an error code "E9". So Mr and Mrs W contacted British Gas who made visits in mid-March 2021 and late March 2021, stopping a water leak that had caused corrosion to the main casing of the boiler.

The boiler again displayed error code "E9". British Gas visited again on 15 April 2021 and said the boiler was unsafe to use.

Mr and Mrs W complained to British Gas that it should've done more on its previous visits.

Mr and Mrs W paid £4,700.18 for the replacement boiler, flue and installation.

British Gas acknowledged the complaint in April 2021, but it didn't provide a final response within eight weeks. Mr and Mrs W brought their complaint to us without delay. They said that British Gas should reimburse the £4,700.18.

By a final response dated 27 July 2021, British Gas declined to reimburse that cost. But it apologised for giving inconsistent information on the visits in March and April 2021 and said it was sending a cheque for £250.00.

Our investigator didn't recommend that the complaint should be upheld. She didn't think that the boiler became unrepairable while it was covered for replacement under the policy or the warranty. She thought that offer of £250.00 compensation was reasonable.

Mr and Mrs W disagreed with the investigator's opinion. They asked for an ombudsman to review the complaint. They say, in summary, that:

- British Gas failed to service their old boiler properly in line with the manufacturer's recommendations, including removal of the inner cover to inspect the heat exchanger.
- Removal of the front panel of the inner case during the previous service would have revealed the water leaking from the automatic air vent and the start of the corrosion of the case before the corrosion perforated the case.
- In March 2021, British Gas fixed the water leak by replacing the automatic air vent. It also replaced the front panel of the inner casing. British Gas didn't record these replacements on its checklists.
- The checklist on 24 March 2021 said all was safe and in working order.
- It has been suggested that the "Error Code E9" and boiler shutdowns were caused by the failure to clean out the heat exchanger.
- In April 2021, a different British Gas engineer showed them the corrosion of the inner case and how the new front panel was held on with sticky tape. He said this was unsafe because it allowed fumes to be released. British Gas had never before advised that the boiler should be replaced.
- The manufacturer still makes the model of the old boiler therefore all parts are available. British Gas chose not to get the parts.
- British Gas refunded the cost of the policy for one year. This shows that it believed that the corrosion had started before annual service in July 2020 and that the service was inadequate. At that time the boiler and components were guaranteed by the manufacturer.
- British Gas communicated poorly about the complaint.

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.

The Financial Ombudsman Service deals with a consumer's complaint about regulated activities of a regulated financial firm. Where we uphold a complaint about an unfair act or omission, we look to compensate the impact on the consumer. For unfair and unsafe acts or omissions, we look to compensate the actual impact on the consumer, rather than what might've happened.

We don't assess compensation at a level to deter or punish unfair acts or omissions. It's not our role to direct a firm to change its procedures for other consumers.

I haven't seen the manufacturer's warranty or – crucially – its terms. So I'm not persuaded that the manufacturer would've covered a replacement boiler if the old one had been found to be leaking water before October 2020.

The British Gas policy terms have changed from time to time. But for some years, they have contained a term along the following lines:

*“One of our engineers will visit your **home** to complete your **annual service**. This will include testing the gases your appliance or boiler produces. If the visit shows that it’s necessary to take your appliance or boiler apart to adjust or clean it, we’ll do so.*

During the visit, our engineer will fill in a checklist that shows you exactly what we’ve looked at. If we find a problem or fault that needs to be fixed, we’ll tell you about it.”

The “annual service” has been defined as a check that the boiler is working safely.

I’ve noted the manufacture’s recommendations, including to clean the heat exchanger.

However, I keep in mind the policy terms and the checklists I’ve seen. So I can’t say that any of the visits before March 2021 showed that it was necessary to dismantle the boiler (or to open its inner casing) for the purpose of adjusting or cleaning it. And I can’t say that British Gas treated Mr and Mrs W unfairly by not opening the boiler casing or cleaning the heat exchanger.

The British Gas terms have also included a term along the following lines:

“Replacement parts

*We’ll try to get parts from the original manufacturer or our approved suppliers. We’ll try to provide **replacements** with similar functionality but not necessarily the same features or an identical make and model or type of fitting .. Or you can give the engineer a **replacement** part that you’ve bought yourself, that we approve, but we’ll only accept responsibility for our workmanship. If we can’t get hold of the parts we may need to cancel your **agreement** (or part of it)…”*

So British Gas could cancel the policy (or at least the part relating to the boiler) if it couldn’t get hold of replacement parts.

The British Gas terms have also included a term along the following lines:

“Any other loss or damage

We’re not responsible for any loss of or damage to, or cleaning of property, furniture or fixtures as a result of your boiler, appliance or system breaking or failing unless we caused it. For example damage caused by water leaks....”

So British Gas said it wasn’t responsible for a water leak unless British Gas caused it.

It’s common ground that by March 2021, the boiler had been leaking water for some time. Mr and Mrs W believe that the leak started between about 2016 and 2018. But I consider that they bear the burden of showing a probability that the leak started before the visit in July 2020– and that British Gas didn’t do what it should’ve done on that visit.

But none of the British Gas annual service visits did uncover a leak. And in my view, Mr and Mrs W have fallen well short of showing that there was a leak that British Gas should’ve identified during an annual service visit. In any event, Mr and Mrs W have fallen well short of showing that British Gas caused the leak or the corrosion. So I don’t find it fair and reasonable to direct British Gas to contribute toward the cost of their new boiler.

British Gas accepted that it gave inconsistent information in March and April 2021. One aspect of this was that in March a checklist said that all functional parts of the boiler were available, but in April a checklist said they weren't. Mr and Mrs W say that all parts were available. But they didn't get someone to repair the old boiler. Rather they had a new boiler.

Mr and Mrs W have said that the way that the first engineer left the boiler was criticised by the second engineer. They have also criticised the first engineer's record keeping. And the British Gas final response said that the part to repair the boiler wasn't available. So I find it more likely than not that the second engineer was correct that British Gas couldn't get hold of a replacement body or casing for the old boiler.

Keeping in mind the policy terms, I consider that the British Gas refund was as a result of the unavailability of parts, rather than an admission of a poor annual service.

I consider that – by the inconsistent information - British Gas failed to manage Mr and Mrs W's expectations. It left them open to the inconvenience of the repeated boiler issues they experienced. And it left them upset by the thought that from the visits in March to the visit in April, British Gas had left them with a boiler that was unsafe. I keep in mind Mr and Mrs W's health issues.

British Gas didn't respond to the complaint as promptly or as well as it should've responded. But its belated final response tried to put things right by sending a cheque for £250.00.

And if British Gas had condemned the old boiler in March, then Mr and Mrs W would've had to pay for a new boiler earlier.

Overall, I consider that the £250.00 was at least as much as I would've found fair if British Gas hadn't made such an offer. I don't find it fair and reasonable to direct British Gas to do any more in response to this complaint.

My final decision

For the reasons I've explained, my final decision is that I don't uphold this complaint. I don't direct British Gas Insurance Limited to do any more in response to this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W and Mr W to accept or reject my decision before 30 August 2022.

Christopher Gilbert

Ombudsman