

The complaint

Mrs T and Mr T say British Gas Insurance Limited caused damage to their property following a claim against their home emergency insurance policy.

Reference to British Gas include their agents.

What happened

The background to the complaint is known to all parties, so I won't repeat it in detail. In my decision I'll mainly focus on giving the reasons for reaching the outcome I have.

In summary, Mrs T and Mr T reported water was flowing from the toilet cistern into the bowl. British Gas attended, removed the toilet, fitted new parts, and left.

Later, In August 2021, Mrs T and Mr T reported some mould at the back of the toilet, water staining on the hallway ceiling below, and water had tracked through into a lightbulb. British Gas attended and the engineer tightened the compression fitting on the toilet. Mr T says the engineer told them the leak was the result of the previous engineer failing to tighten this fitting.

Mrs T and Mr T complained to British Gas. They also raised a claim with their home insurer to repair the damaged caused by the water leak. They say British Gas caused the leak during a visit in July 2021.

Although Mrs T and Mr T think British Gas caused the leak and damage, British Gas haven't accepted liability. Mrs T and Mr T say they had to make a home insurance claim and paid an excess they think British Gas should refund. They also think they should be compensated for the level of distress and inconvenience this caused.

British Gas later responded to Mrs T and Mr T's complaint around December 2021. Although this didn't include any admission of liability, they paid Mrs T and Mr T £250 compensation for the delays in responding to the complaint. As Mrs T and Mr T remained unhappy, they approached our service.

I issued my provisional decision on 17 August 2022, which set out the following:

'A key finding I must make is whether I'm most persuaded that British Gas caused the leak and subsequent damage, or whether damage was already occurring prior to their engineer attending. And having considered all the evidence available to me, on balance, I'm currently most persuaded by Mrs T and Mr T's testimony that the leak and subsequent damage wasn't occurring prior to British Gas attending in July 2021. I'll explain why.

It's clear there was an issue with the toilet prior to British Gas attending. The notes suggest Mrs T and Mr T reported that water was flowing from the cistern into the bowl. But what doesn't appear to have been reported is a further leak that wasn't contained within the toilet itself.

It isn't disputed the first engineer removed the toilet from its fittings. This was then later

screwed into place following a further visit, and the engineer says they tested the toilet and no issues were found. Although, Mrs T and Mr T later reported – in August 2021 – they had found some mould, water stains, and water underneath the flooring.

I've weighed up the evidence in this case, and I appreciate it's finely balanced. Mrs T and Mr T, however, say the damage listed above wasn't present until after the first engineer had removed the toilet and carried out repairs. I find their testimony persuasive, consistent, and have seen no evidence that undermines it – such as engineers notes which suggest damage was already present due to what was first reported by Mrs T and Mr T before British Gas attended.

In August 2021, the engineer's notes suggest they had to tighten the compression fitting. Mrs T and Mr T argue the first engineer – when removing the toilet from its fittings – would have also needed to remove the compression fitting and tighten it back up. This seems most likely and plausible given another engineer had to tighten this which appeared to stop the leak.

I've to look at the evidence and then make a judgement call here based on the balance of probabilities. That is, what I think most likely caused the leak and damage. And in this case, I haven't been persuaded the leak and subsequent damage Mrs T and Mr T reported in August 2021 was the result of what they initially reported when water was flowing from the cistern into the bowl.

The damage Mrs T and Mr T found in August 2021 wasn't noted by engineers or reported until after the first engineer had removed the toilet and carried out repairs. Given its accepted by all parties that the toilet was removed during repairs, damage was unlikely present until after this, and another engineer had to tighten the compression fitting, I'm satisfied the most likely scenario here points to the leak being the result of the compression fitting, which caused water damage to Mrs T and Mr T's property.

Mrs T and Mr T say this led to them having to make a home insurance claim they otherwise wouldn't have done. And I haven't seen any strong supporting evidence that demonstrates they would have been required to do so but for British Gas's actions.

So, based on what I've seen so far, I currently intend on directing British Gas to refund Mrs T and Mr T's home insurance excess, and include interest. I also intend on directing British Gas to pay Mrs T and Mr T a further £150 compensation (in addition to the £250 that's already been paid) to recognise the level of distress and inconvenience this matter has caused them. This further payment is also to reflect the inconvenience and impact on Mrs T and Mr T having to make a home insurance claim I'm not persuaded they otherwise would have needed to.

My provisional decision

My provisional decision is I uphold the complaint. I currently intend on requiring British Gas Insurance Limited to:

- Reimburse the excess payment Mrs T and Mr T paid to their home insurer, and include 8% simple interest, from the date this payment was made by them, to the date of settlement; and
- Pay them £150 compensation for any distress and inconvenience caused.'

Responses to my provisional decision

Mrs T and Mr T responded to say their home insurer refunded the claim excess they paid.

They say their home insurer took this decision following conversations with British Gas's agent around March 2022. They also say their home insurance premium could increase if their home insurer is unable to recover their outlay and think British Gas should cover this in full.

British Gas responded to say they requested more information from their agent. They didn't indicate whether they accepted my provisional decision within the timeframe I set out. I'm satisfied, however, I have all the evidence I need to reach a final decision on the matter, which follows.

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.

When issuing my provisional decision, I kept in mind the possibility that Mrs T and Mr T's home insurer may decide to refund the claim excess they paid – which has now happened. Although what remains is whether British Gas accept liability for the damage, and the prospects of Mrs T and Mr T's home insurer recovering their claim outlay for the subsequent damage.

I fully understand why Mrs T and Mr T think British Gas should cover their home insurer's claim costs. However, this is now a matter for their home insurer and British Gas to consider and resolve directly. I'm unable to interfere with this even though I know how strongly Mrs T and Mr T feel I should.

Even with the new information that's come to light from Mrs T and Mr T regarding their home insurance excess payment being refunded, the outcome I provisionally set out remains the same, but for different reasons. I'll explain why.

I'm unable to direct British Gas to refund Mrs T and Mr T's home insurance excess because that's now been refunded back to them. I do, however, still think British Gas should pay interest here from the date Mrs T and Mr T paid their excess to their home insurer, to the date it was refunded. This reflects the period they were without these funds. So, British Gas must calculate this amount now and pay it to Mrs T and Mr T.

The original claim was reported in 2021 and has become a longstanding dispute – in my view – unnecessarily. And led to them needing to make a home insurance claim I don't think they otherwise would have needed to, but for British Gas's actions, as set out above. Not only should the claim have ran far smoother than it did, the impact of making a home insurance claim could impact Mrs T and Mr T moving forward with their insurance premiums, amongst other things.

I appreciate British Gas have already made a compensation payment to Mrs T and Mr T for £250. But the claim notes suggest this payment was for the delays caused when responding to the complaint. So, whilst I won't be directing British Gas to refund the £450 home insurance excess Mrs T and Mr T paid, I'll be directing them to pay this amount in recognition of the way things were handled overall. And the frustration, distress, and inconvenience this caused Mrs T and Mr T.

As mentioned above, there's also the possibility here of Mrs T and Mr T being impacted in future following the home insurance claim for the subsequent damage. So, to recognise this, I'll also be directing British Gas to pay Mrs T and Mr T a further £150 compensation. So, the total compensation amount British Gas must pay Mrs T and Mr T is £600.

Putting things right

British Gas must now pay Mrs T and Mr T £600 compensation in total. This payment is to recognise the impact on them due to the way things were handled, and the potential future impact on them following the subsequent home insurance claim.

British Gas must also calculate and pay 8% simple interest on the £450 home insurance policy excess payment made by Mrs T and Mr T, from the date it was paid, to the date it was refunded by their home insurer.

My final decision

For the reasons given above, it's my final decision that I uphold this complaint. I now require British Gas Insurance Limited to do the following:

- Pay Mrs T and Mr T £600 compensation for any distress and inconvenience caused and
- Pay 8% simple interest on the policy excess payment refunded by Mrs T's and Mr T's home insurer – from the date they made the payment, to the date it was refunded.

If British Gas Insurance Limited considers that they're required by HM Revenue & Customs to deduct income tax from that interest, they should tell Mrs T and Mr T how much they've taken off. They should also give Mrs T and Mr T a tax deduction certificate if they ask for one, so they can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs T and Mr T to accept or reject my decision before 14 October 2022.

Liam Hickey
Ombudsman