

The complaint

Mr H complains that Aviva Insurance Limited is responsible for mishandling his claim on a home emergency insurance policy.

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

What happened

Mr H has an upper flat with a gas central heating boiler in the loft or roof space.

The home assistance company offered a home emergency insurance policy for plumbing and heating for flats. Aviva was the insurance company responsible for dealing with any claims.

For the year from early January 2020, Mr H took out such a policy for his flat. He agreed to pay the yearly premium by instalments.

In mid- January 2020, Aviva did a boiler health check ("BHC"). It told Mr H that his boiler had issues with the flue, lack of brackets and poor access. Aviva told Mr H that the policy wouldn't cover his boiler until he got those issues resolved.

On 27 September 2020, Mr H's radiators weren't heating up properly. He called for help under the policy. Aviva visited and recommended that Mr H should arrange a power flush of the system. On 11 October 2020, Mr H got a power flush.

On 20 October 2020, Aviva sent Mr H an email saying that – in order for the cover to remain in place - he'd need to complete the work recommended following the BHC.

On 21 October 2020 and 4 November 2020, Aviva visited Mr H's property but didn't fix the heating.

Mr H engaged a contractor privately. On 18 November 2020, that contractor reported that a couple of radiator valves were leaking, and an expansion vessel was split. He also added a clip to the flue. His invoice was for £102.60.

On 24 November 2020, Mr H complained to Aviva about the lack of progress.

By a final response dated 25 November 2020, Aviva said that it wouldn't attend to the boiler. Aviva apologised for not informing Mr H of this sooner. Aviva credited Mr H's account with £950.00.

On about 28 November 2020, Mr H made a further complaint to Aviva. On 30 November 2020, Aviva emailed Mr H saying that it had put the appointment for his heating repair on hold until he returned to the UK or he could arrange for someone else to attend an appointment at the flat.

For the year from early January 2021, Aviva offered to renew the policy for plumbing.

By a text dated 24 February 2021, Aviva said the following:

“...we did get it wrong this time as we failed to complete the repair within an acceptable time frame after your initial complaint.... I’m sorry that this happened and I would like to offer you £150 for the inconvenience caused.”

By a final response dated 26 February 2021, Aviva said the following:

“I agree the fault that occurred from 26 November should have been repaired on prior visits”.

On 30 September 2021, Mr H sent an email saying he’d be returning to the UK in October 2021. He asked when he could book an engineer to do the long-awaited heating repairs.

On 8 October 2021, Aviva sent an email saying that the relevant team would be in contact to arrange for the repair.

On 18 October 2021, Aviva emailed Mr H saying that the policy no longer covered the boiler. On 19 October 2021, Mr H complained to Aviva that the email of 30 November 2020 had promised an engineer.

By a final response dated 22 October 2021, Aviva said that it couldn’t work on the boiler. Aviva apologised for conflicting information.

Unhappy with that, Mr H brought his complaint to us in late October 2021.

our investigator’s opinion

In April 2022, our investigator considered that the final response dated 25 November 2020 was contradicted by the email dated 30 November 2020. And that final response and the final response dated 26 February 2021 were contradicted by the final response dated 22 October 2021. So - notwithstanding the time that had passed since the first final response – the investigator said that he could deal with the complaint. Aviva agreed with that.

Our investigator recommended that the complaint should be upheld in part. He didn’t think that Aviva should repair Mr H’s boiler. He thought that Aviva was responsible for mishandling Mr H’s expectations over a quite a long period of time and he’d suffered distress and inconvenience as a result.

The investigator recommended that Aviva should pay Mr H (in addition to the £950.00 already paid and the £150.00 offered) £200.00 compensation (a total of £1,300.00).

Aviva agreed with the investigator’s opinion. Aviva said that Mr H had not been charged for boiler cover.

my provisional decision

After considering all the evidence, I issued a provisional decision on this complaint to Mr H and to Aviva on 17 September 2022. I summarise my findings:

After early 2020 – Mr H didn’t have cover for his central heating system and wasn’t

paying for it. That was, in my view, the fundamental reason why Aviva didn't have to fix his boiler or expansion vessel or radiators.

Aviva was responsible for conflicting and confusing information.

By not challenging the payment of £950.00, Mr H had accepted it in settlement of his 2020 complaint.

So I didn't find it fair and reasonable to direct Aviva to pay any further compensation in relation to the power flush in October 2020 or Mr H's contractor's invoice in November 2020.

As the £950.00 was in settlement of the 2020 complaint, I didn't find it fair and reasonable to give Aviva credit for that payment in relation to the impact of later events and complaints.

When he'd brought his complaint to us in late October 2021, Mr H had said the following:

*" I have been away since **1st December 2020** and was supposed to return to London earlier this month, but I am still waiting to find a solution with [Aviva] as it is very hard to be back home with no heating and hot water."*

Mr H hadn't suffered discomfort from the absence of heating in the flat between 1 December 2020 and late October 2021.

And the final response dated late October 2022 had fairly explained that – despite previous conflicting information – Aviva wasn't going to cover the repair of the heating. So I didn't find it fair and reasonable to direct Aviva to pay compensation for the discomfort Mr H suffered after his return later in 2021 (or any ill effects on his health).

Overall, I considered that - in addition to the £950.00 in relation to events up to 25 November 2020 - a further £350.00 was fair and reasonable compensation for distress and inconvenience.

That was the same outcome as the investigator recommended, and Aviva accepted. But my reasoning was different to the investigator's, for example on the effect of the payment of £950.00 and on Mr H's absence from the UK. So I considered that it was only fair that my decision should be provisional so as to give Mr H (and Aviva) an opportunity to consider my reasoning and to respond to it.

Subject to any further information from Mr H or from Aviva, my provisional decision was that I upheld this complaint in part. I intended to direct Aviva Insurance Limited to pay Mr H - in addition to the £950.00 in relation to events up to 25 November 2020 - a further £350.00 compensation for distress and inconvenience.

Mr H accepted the provisional decision.

Aviva said it had nothing to add in response to the provisional decision.

So I see no reason to change my view.

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 is bound by the Financial Conduct Authority's dispute resolution rules.

Following a complaint, the rules require a regulated firm, within eight weeks, to provide a final response, informing the consumer of the right to bring the complaint to us within six months after the final response. We cannot usually investigate a complaint brought to us after that period of time.

Where we uphold a complaint about an unfair act or omission, we look at the impact on the complainant consumer. We assess compensation by reference to that impact. In an insurance complaint, the rules don't allow us to consider the impact on anyone other than the policyholder (for example members of the policyholder's family).

The home emergency policy terms were divided into cover for heating and cover for plumbing and drainage.

The policy terms defined plumbing and drainage as follows:

"Plumbing and/or drainage: the water pipework, taps, stop taps, water storage, drainage and waste pipes within your property..."

So the plumbing and drainage cover didn't include the boiler or the expansion vessel or radiators or radiator valves.

The policy terms for the heating system included the boiler, expansion vessel, radiators and radiator valves. But the policy terms included the following:

"Boiler Health Check: (BHC)

...

During the BHC our engineer will check that your boiler meets our eligibility criteria, your boiler or central heating don't have any pre-existing faults and is in good working order. If the BHC fails we'll either:

- Tell you what needs to be done to fix it – and how much it'll cost if it's a repair we can complete*
- Remove the boiler/system element of cover from your policy and adjust your premiums accordingly*
- Or, cancel your agreement if you only have cover for your boiler/system and provide a refund*

If you need to make a claim for your boiler and/or central heating system before we've checked your boiler, we will complete the BHC at the same time we come out to assess the problem. We will not be able to resolve your issue if your boiler does not meet our eligibility criteria or your boiler or central heating have faults that preexisted the date of your policy application.

Your boiler or central heating cover will be suspended whilst you make arrangements for the fix to be completed. If you subsequently provide evidence (within 28 days) that the problem has been fixed we will reinstate your level of cover or agreement."

So Aviva could decide on its first visit whether the central heating system met the eligibility

criteria. And if it didn't meet the criteria, then Aviva could remove the heating system from the policy but continue to cover the plumbing and drainage.

From what I've seen, there were a number of reasons why Mr H's system didn't meet the eligibility criteria at the BHC in mid-January 2020. And there's no evidence that Mr H addressed the concerns about his system within 28 days. So Aviva removed his heating system from cover.

From the 2021 renewal letter, I find that Aviva had continued throughout 2020 to provide plumbing and drainage cover, but not heating cover, and it had adjusted the premium accordingly.

So – after early 2020 – Mr H didn't have cover for his central heating system and wasn't paying for it. That is, in my view, the fundamental reason why Aviva doesn't have to fix his boiler or expansion vessel or radiators.

Aviva was responsible for conflicting and confusing information. That included the following:

- In late September 2020, failure to say there was no cover for heating.
- In October 2020, suggestion of a power flush.
- In October and November 2020, visits to the flat and failure to say there was no cover for heating.
- In late November 2020, the email about arranging a further visit.
- In late February 2021, an incorrect apology for not completing the repair.
- In early October 2021, an incorrect suggestion that it would arrange a repair.

But I don't consider that this conflicting and confusing information means that it is fair and reasonable to direct Aviva to repair Mr H's boiler or heating system or to compensate Mr H for the cost of such repairs.

Rather, I've thought about the impact on Mr H of the conflicting information.

That impact included paying for a power flush. But Aviva said the water tests had shown that the system had needed a flush. Mr H he knew the cost of that and the cost of his contractor's visit when he complained in late 2020. The final response in November 2020 included the following:

"In full and final settlement of your complaint, you have accepted my resolution of £950.00 compensation to be paid into your account. I appreciate you were not happy with the amount offered."

Mr H could've brought his complaint to us within six months, but he didn't. I agree with the investigator that - because of the later reviews and final responses - we can still investigate that complaint.

However I consider that, by not challenging the payment of £950.00, Mr H had accepted it in settlement of that complaint. So I don't find it fair and reasonable to direct Aviva to pay any

further compensation in relation to the power flush in October 2020 or Mr H's contractor's invoice in November 2020.

As the £950.00 was in settlement of the 2020 complaint, I don't find it fair and reasonable to give Aviva credit for that payment in relation to the impact of later events and complaints.

I find that the email of 30 November 2020, the apology in February 2021 and the email in early October 2021 all unfairly raised Mr H's expectations that Aviva would fix his heating on his return to the UK.

I don't doubt that Mr H was disappointed and frustrated that Aviva's final response in October 2021 said that his central heating wasn't covered. But I consider that Aviva was correct.

When he brought his complaint to us in late October 2021, Mr H said the following:

*" I have been away since **1st December 2020** and was supposed to return to London earlier this month, but I am still waiting to find a solution with [Aviva] as it is very hard to be back home with no heating and hot water."*

So I find that Mr H hadn't suffered discomfort from the absence of heating in the flat between 1 December 2020 and late October 2021.

And I consider that the final response dated late October 2022 had fairly explained that – despite previous conflicting information – Aviva wasn't going to cover the repair of the heating. So I don't find it fair and reasonable to direct Aviva to pay compensation for the discomfort Mr H suffered after his return later in 2021 (or any ill effects on his health).

Putting things right

Overall, I consider that - in addition to the £950.00 in relation to events up to 25 November 2020 - a further £350.00 is fair and reasonable compensation for distress and inconvenience.

My final decision

For the reasons I've explained, my final decision is that I uphold this complaint in part. I direct Aviva Insurance Limited to pay Mr H - in addition to the £950.00 in relation to events up to 25 November 2020 - a further £350.00 compensation for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 26 October 2022.

Christopher Gilbert
Ombudsman