

The complaint

Mr P complains on behalf of Mrs P that DAS Legal Expenses Insurance Company Limited delayed in repairing their boiler, under her home emergency cover, and failed to deal adequately with the claim. The matter was mostly dealt with by a claim handling company though for convenience I'll refer to DAS throughout. It was responsible for the actions of its agents – the claim handling company and any engineers it had instructed.

What happened

On 26 January 2022 Mr P contacted DAS because their boiler had broken down. DAS sent out an engineer the next day. Despite saying they would arrive before 1.30 pm they didn't arrive until after 2 pm. The engineer said the boiler needed a new gas valve but couldn't repair it that day.

Mr P made several calls to DAS, and spoke to a manager who he said advised that he could be reimbursed for buying an electric heater. It was agreed an engineer would come on 29 January.

The engineer arrived, again after the time period advised and didn't carry out repairs. Mr P said the engineer abused him.

On 1 February an engineer arrived 30 minutes before the end of the time period given. He again said he couldn't repair the boiler and that a new gas valve was needed. On 2 February Mr P received a voicemail message from DAS advising that he could instruct his own contractor and it would refund any repair up to £200.

Mr P attempted to find a contractor to carry out the repair but without success. He contacted DAS again, who advised him on 4 February that it couldn't find any local engineers to carry out the repair but the network manager had authorised a repair from the boiler manufacturer– this was for 14 February. On that date a contractor arrived at 1.00pm and carried out the repair, fitting a new gas valve and another part.

Mr P made complaints that DAS failed to respond to the emergency and kept fobbing him off. It took 17 days to repair the boiler leaving him and his family and guests in sub zero temperatures. He advised that he had spent many hours awaiting for engineers to arrive and on the phone trying to chase matters up.

Initially after the first visit DAS advised Mr P that the claim wouldn't be covered as Mr and Mrs P had two boilers. It also said that as one boiler was working and they still had heating and hot water to part of the property, this did not constitute a full breakdown. It did however point out that it had authorised Mr P to instruct his own contractor at a cost of up to £200 and it would be willing to pay any such costs on receipt of an invoice. It had also paid for the contractor repair on 14 February 2022. It said that Mr P's complaints about the behaviour of the engineer had been taken on board and fed back internally.

On referral to the Financial Ombudsman service our investigator pointed out that the policy doesn't have an exclusion for two boilers – just if the combined output exceeded 70 kwh.

DAS responded that the combined output was 66kwh so the claim was covered. It also said that on review the emergency cover was for the failure of the main heating system in the home, so again the claim should have been covered. It offered to pay compensation of £150, and any contractor's invoice.

Mr P supplied an invoice but this related to a previous claim and for work done in December 2021. He said he still hadn't been reimbursed for the heater he had bought.

Our Investigator said that DAS's offer of compensation was reasonable.

Mr P didn't agree and said this failed to take into account the time had had spent on phone calls and waiting for engineers' visits. He felt that DAS and its agents had been deliberately obstructive and abusive.

I issued a provisional decision. In it I said that DAS should pay Mrs P's costs of up to £60 for temporary heating.

DAS accepted my provisional findings.

Mr P responded to my provisional findings as follows:

- He doesn't accept that it was agreed for an engineer to attend on 29 January – this was imposed on them by DAS.
- He sent us a voice recording of the abuse he says he received.
- The boiler problem was misdiagnosed. The contractor who repaired it flicked a small switch that had slipped, he did not fit a gas valve.
- He sent us an online feed concerning DAS's conduct towards other customers which shows the agent has a history of obstruction.
- He still hasn't received payment for the previous repairs he had carried out.
- He believes I should consider the inconvenience the claim caused him as well as his wife, since the policy includes family legal protection.

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 following were my provisional findings, set out below in italics. Where any wording was previously in italics I have also underlined it.

jurisdiction

I should advise Mr P that the policyholder in this case is Mrs P. As a matter of jurisdiction, I only have the power to make compensation awards or require other action, in respect of Mrs P. Regrettably this means that as the majority of the time spent and inconvenience fell on Mr P I can't award him compensation for that. I can award compensation to Mrs P in so far as the delays and inconvenience affected her.

the claim

I think that Mrs P was caused inconvenience and upset in the way her claim was dealt with. On reviewing the information provided I can see that the first engineer noted that there were two boilers at the property. I believe it is two properties but linked. I think that the second and third visit by the engineers were to establish whether in light of that, there was policy cover. But, while he wasn't promised a repair I also think that it wasn't made clear to Mr P in his various calls why the repair wasn't being carried out. The second visit was to establish what the situation was but after that the contractors refused to attend again meaning the process had to be started again with a new contractor.

I do think that if DAS' agent had considered the policy terms properly, a repair might have been able to be organised sooner. But I don't think they were being deliberately obstructive. It is the case that part of the property had a working boiler. And Mr P was given the opportunity to contact his own contractor which is what I would expect DAS to provide. It is unfortunate that Mr P was unable to find anyone, but I do note that DAS did take the claim back on board and organised the eventual repair.

engineer's conduct

Mr P says he was abused by one of the engineers. DAS hasn't admitted this but nevertheless apologised. Without being present at the time it is difficult for me to make any finding about this. I note DAS' agent apologised and fed back the matter internally. Whilst I understand Mr P is unhappy with this, bearing in mind my comments about my power to award compensation, I don't think I can take this matter any further.

compensation

I think Mrs P should be awarded compensation for the delay in getting the boiler repaired at the property and for being misled about the policy cover. As I've said I can't award compensation to Mr P for the distress and inconvenience caused to him. But I have to take into account that DAS was proceeding in this case as if no cover was actually available for Mrs P in light of their views on the presence of a second boiler. So it seems likely that the case wasn't given the priority it would have got if Mr and Mrs P had been totally without heating or hot water. In the circumstances of this case and bearing in mind our awards in similar cases I think DAS should increase the compensation payment to £250.

cost of invoices

Mr P has produced an invoice for repairs he had carried out to his heating system. However this invoice is dated 7 January 2022, and is for work carried out on 10 December 2021. I believe this relates to a previous claim so is not part of this complaint.

Mr P also says they had to spend £60 on temporary heating, which a manager advised him he could do. I haven't seen that invoice and the particular phone call, on 28 January 2022, in which he says that was promised hasn't been provided. I've seen a note of the call which doesn't mention this. Nevertheless I think that's reasonable, so if Mr P provides the invoice DAS should reimburse him up to £60 for this."

I've now listened to the phone call of 28 January with a manager, which I'm grateful to Mr P for providing. The manager repeatedly said he couldn't guarantee that a repair would take place the next day as it was to be a diagnosis in light of the first contractor identifying that there was a second boiler and some heating/hot water available. Nevertheless the manager said he would ask if the contractor could bring the part and if possible fit it under the fixed fee arrangement, again with no guarantees. The appointment was agreed in the sense that it

was put to Mr P and he accepted it. The manager also confirmed Mr P could buy temporary heating for up to £60. Mr P has sent details of the payment to DAS, so it can now pay this.

I've listened to the recording of a part of the engineer's visit. There may have been an abusive term used but it's not clear and the recording is of only a small part of the conversation. When I said DAS's agent apologised I meant the claims handling company who did apologise both in writing and over the phone. In the letter of 23 February 2022 they said, "*I am truly sorry for any distress that may have been caused.*" I still don't think I can take that point any further than it has been taken.

According to the report sent to Mrs P by the manufacturer's service department in respect of the visit on 14 February 2022 it said, "*Fitted new gas valve and G10.*" So according to that a new gas valve was fitted.

I've seen the online comments previously. I can't take them into account as they involve other customers and I have no idea of their circumstances. My focus is in respect of DAS's actions in respect of Mrs P, its policyholder.

I reiterate that the previous repair to their system that Mr or Mrs P paid for is not part of this complaint.

I take on board Mr P's comments about the policy giving family protection. I accept that the family are entitled to benefit from certain parts of the policy. Mrs P is the policyholder and the complainant, but I accept that any inconvenience suffered by *or by her family on behalf of her* deserves an award of compensation.

Nevertheless, and I have given this careful consideration, I won't increase the compensation award beyond the figure set out in my provisional decision or award costs for Mr P waiting in and for dealing with the claim and complaint. The repair took 19 days from the date of notification of the claim. And a policyholder has to accept some inconvenience in any case waiting in for appointments, even if the engineer comes slightly after or near the end of the time period advised. I think two of the appointments here shouldn't have been necessary. But the family had access to temporary heating in that time and some access to hot water.

I am satisfied nevertheless that the family suffered a lot of inconvenience within a relatively short period of time, which is why I think a payment of £250 is fair and reasonable.

Putting things right

DAS should:

- pay Mrs P £250 compensation.
- pay Mrs P £60 for the purchase of temporary heating.

My final decision

I uphold the complaint and require DAS Legal Expenses Insurance Company Limited to provide the remedy set out under "Putting things right" above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 27 April 2023.

Ray Lawley

Ombudsman