

The complaint

Mr and Mrs L are unhappy with British Gas Insurance Limited's (British Gas) handling of claims made for leaks at their property.

What happened

Mr and Mrs L have a Home Care policy with British Gas. The policy covers, amongst other things, problems with plumbing and drainage. Due to reoccurring leaks, Mr and Mrs L contacted British Gas several times to use their plumbing and drainage cover.

British Gas' engineers and contractors attended several times over a period of three months to try to resolve the reoccurring leak. However, there was a significant leak and flood in March 2022 which caused extensive damage to Mr and Mrs L's home. As a result, Mr and Mrs L have needed to make a claim under their home insurance for the repairs.

Mr and Mrs L say British Gas is ultimately responsible for the significant leak which caused the damage, resulting in the necessity of a home insurance claim. This is because they say British Gas didn't remove a blockage when they could have, prior to the significant leak. They want British Gas to reimburse their £300 home insurance excess and pay compensation.

British Gas say they aren't responsible for what happened as it wasn't them that caused the blockage, or leak, and they say they resolved the issue each time it arose and was reported.

Mr and Mrs L didn't agree with British Gas' position and approached this service.

Our investigator looked into things, but he didn't uphold the complaint. He said that he didn't think British Gas was responsible for the damage that occurred as he said they had resolved the problems each time they were called out.

The investigator recognised that Mr and Mrs L were waiting for contact from British Gas to arrange a visit for several weeks before the significant leak happened, but he said Mr and Mrs L should have followed this up with them sooner. He also said there was limited information provided, and Mr and Mrs L hadn't proven when access to their drain from a neighbouring property was given, so he didn't conclude British Gas could've unblocked the drains sooner.

Mr and Mrs L didn't agree and asked for a final decision from an ombudsman.

I issued a provisional decision. I was minded to reach a different outcome to our investigator, so I issued a provisional decision, to give both parties an opportunity to comment on my initial findings, before I reached my final decision.

What I provisionally decided – and why

In my provisional decision, I said:

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

Having done so, I'm minded to reach a different outcome to our investigator. Therefore, I'm issuing a provisional decision, to give both parties an opportunity to comment on my initial findings before I reach my final decision.

British Gas attended Mr and Mrs L's property a number of times due to a reoccurring leak. The dispute I need to decide here is whether or not British Gas is, on balance, responsible for, and/or could've prevented, the extensive leak which occurred in March 2022 causing significant damage, resulting in Mr and Mrs L needing to claim under their home insurance.

The information British Gas has provided, including information about the visits from their engineers, is limited and British Gas has told us it has sent us all the information it has. Mr and Mrs L have provided detailed summaries and timelines of what they say happened, which at points differs to what British Gas say. In cases like this, where the evidence is incomplete or contradictory, I'll reach my decision on the balance of probabilities. That is, what do I think is more likely than not.

The records from British Gas show they first attended on 31 January 2022. The notes from this visit say the problem reported was that the downstairs toilet blocks and overflows if the upstairs toilet is flushed. The engineer reported that there was a blocked internal stack, and there was a leak on the flex where clearing was attempted, and the flex would need to be replaced. The notes say the block was cleared and there were no further leaks.

There was a further leak reported to British Gas on 8 February 2022. It was reported as a leaking flex pipe which needed replacing and that now, when the other toilet was used, water was coming out the pipe into the house. The engineer reported that they found the toilet already removed and leaking from the pan connector. They said they fitted a new pan connector and it was watertight.

A further leak was reported to British Gas on 15 February 2022. This was reported by Mr and Mrs L as a previous repair on the waste pipe hadn't resolved the issue, the leak was back and water was everywhere. And Mr and Mrs L had said they suspected either the last repair didn't hold or wasn't the actual source of the leak.

The engineer reported back that they were unable to find a leak and there was a possible issue with the sewage vented pipe (SVP) for the upstairs and downstairs toilets.

Mr and Mrs L reported issues to British Gas again on 30 March 2022. This was reported as a leak whenever the toilets were flushed. There were two visits after this was reported. One on 30 March 2022 and the second on the following day.

The engineer note from 30 March 2022 says there was an issue with the downstairs toilet when upstairs was flushed. They said it was a recurring issue and a camera was needed to check from upstairs down the stack. They said the toilet needed removing to do so.

The engineer note from the following day says the toilet was removed and refitted. The toilet had been partially unblocked, and Mr and Mrs L needed to lift the block step in their front garden to gain access to the blockage. The note says the plumber

removed the toilet and CCTV had been used to find the buried manhole and a bag causing the blockage and Mr and Mrs L were to make access.

A final note from 4 April 2022 says British Gas' engineer used a high-pressure water jet to clear the bag stuck in the pipe which restored the flow.

So, this shows there were a number of visits between January and April 2022 when the bag was discovered in the drain and removed, which ultimately removed the blockage and stopped the leak. But prior to removal, a significant leak occurred which caused extensive damage, which resulted in Mr and Mrs L needing to claim under their home insurance for the repairs.

As I say, the information provided by British Gas is limited, the extent of the detail about each of the visits is essentially what I've outlined above. And this does differ with what Mr and Mrs L say happened, and what they say they were told by British Gas' engineers at the visits.

In British Gas' final response, they've said, in summary, that they attended twice in January 2022 and resolved the blockage by clearing the main stack. They say they then returned on 31 March 2022 and found a bag in the drain line and Mr and Mrs L needed to make access. British Gas say they reattended on 4 April 2022 for the same problem and gained access to the drain via a neighbouring property and were able to remove the bag from the drain which resolved the issue.

Based on this, British Gas say they attended in a timely manner and removed the bag once discovered, so they say the damage caused by the leak was consequential and not due to their handling of things.

However, based on the information I've seen, and unless anything changes as a result of the responses to my provisional decision, I'm not minded to agree.

As I've mentioned, in their final response, British Gas has referred to the visits in January, March and April in explaining why they did everything they needed to, and in a timely manner. However, as outlined above, there were also two visits in February, and another visit in March, which British Gas hasn't commented on in their final response or when demonstrating their position. And I think these visits are important in considering on balance, what most likely happened, the sequence of events and consequently whether British Gas is responsible. I'll explain why.

The notes from the first visit on 8 February 2022 say the engineer found the toilet already removed, and a new pan connector was fitted.

But the leak reoccurred, and this was reported again on 15 February 2022. The issue was reported by Mr and Mrs L as a leak and water everywhere, and Mr and Mrs L thought either the previous repair had failed or that the previous visit hadn't identified the source of the leak.

The engineer note from that visit says:

"Unable to find a leak possibly a SVP issue with upstairs and downstairs."

So, the note indicates the engineer wasn't able to find the leak and suggested a possible issue with SVP. However, there was no further investigation carried out by British Gas following this, and no further contact with Mr and Mrs L about this until they again contacted British Gas at the end of March 2022.

Mr and Mrs L have explained that they were told by the engineer on 15 February 2022 that a camera was required to look into the SVP, and they would be contacted by a drainage engineer to arrange this. I think Mr and Mrs L's testimony about what they say they were told would be the next steps fits in with the engineer note above.

Our investigator asked British Gas what would usually happen if there was a possible SVP issue. British Gas said that a drainage engineer would usually be appointed to investigate.

This also correlates with what Mr and Mrs L have said the engineer told them at the time would be the next steps. So, on balance, I'm persuaded this was most likely the next steps Mr and Mrs L were told on 15 February 2022, and that British Gas failed to follow this up.

British Gas has said that Mr and Mrs L didn't follow it up with them either. The limited information provided supports what British Gas say here, but given Mr and Mrs L were awaiting British Gas, and what they were most likely told, I don't think it's reasonable to hold them responsible for the lack of action by British Gas here.

Had British Gas followed up on investigations in mid-February or shortly after, it is likely the cause of the blockage would have been identified much sooner than it was.

British Gas say a bag was identified in the drain on 31 March 2022. Whereas Mr and Mrs L say this was actually 30 March 2022, but the engineer wouldn't remove it at the time. And instead, told Mr and Mrs L to dig up their step to make access to the pipe which was blocked by the bag.

Mr and Mrs L say they confirmed at that time that the neighbour had given permission to access the drain via their property, but they say British Gas told them they had to dig up the step instead. They did this as advised, but ultimately this didn't create access. So British Gas accessed the drain via the neighbouring property and removed the bag on 4 April 2022. But by this point, the significant leak had happened, which caused extensive damage.

It is unclear from the information why British Gas didn't arrange for the bag they identified to be removed prior to April 2022. The policy terms say that the policy covers unblocking drains and repairs to restore flow, but that's not what British Gas did until some time after it was identified – and after the significant leak had happened. Instead they told Mr and Mrs L to dig to access it themselves. British Gas then removed the bag using a high-pressure water jet on 4 April 2022, so it is unclear why they didn't do this sooner which would likely have resulted in the significant leak being avoided.

I think what is key here is what happened both after the 15 February 2022 visit, and the subsequent visits after. In my view, British Gas should've arranged for follow up investigations after that 15 February 2022 visit, instead of doing that at the end of March 2022. If they had done so, the bag in the pipe would've been discovered much sooner.

And I don't think British Gas should have told Mr and Mrs L to arrange access, when access could've been gained from a neighbouring drain to remove the bag and Mr and Mrs L had already obtained permission to access it – and this is how the blockage was resolved by British Gas – but not until 4 April 2022 after the extensive damage had occurred.

So, if things had gone how they should've after that 15 February 2022 appointment, the bag likely would have been identified and removed much sooner, which then likely wouldn't have resulted in an extensive leak or significant damage.

Therefore, based on the limited information provided, I'm minded to conclude, on balance, British Gas is responsible for the later leak which occurred due to their inactions at earlier points in the timeline as I've explained. So, unless anything changes as a result of the responses to my provisional decision, I'll be directing British Gas to put things right here.

Mr and Mrs L have asked for reimbursement of their home insurance excess, and compensation.

But, I don't think British Gas just paying the excess and compensation is sufficient to put things right here, because if the sequence of events had been different, it's likely a home insurance claim wouldn't have needed to have been made in the first place. And having made a claim, that'll likely impact Mr and Mrs L's insurance in the future.

I need to take into account that there were always leaks in the first place, which may have caused some water damage. However, it is clear that the last leak, after British Gas had identified but not removed the bag, is the one which caused significant damage. This was because this was dirty water that leaked and damaged Mr and Mrs L's property. And that's the event that I think could've been avoided, and that's the event that led to a home insurance claim needing to be made due to the extent of the damage caused.

However, deciding with certainty what the impact will be to Mr and Mrs L isn't possible. As the fact is that a home insurance claim has now been made, and repairs are currently underway with the home insurance provider. But it's unclear and unknown how much this will impact Mr and Mrs L at renewal(s) in the future.

So, I've considered what would be, in my view, a fair and reasonable remedy in all the circumstances of the case given the uncertainty.

Unless anything changes as a result of the response to my provisional decision, I'll be directing British Gas to reimburse Mr and Mrs L's home insurance excess, with 8% interest added from date of payment to when it is reimbursed.

Additionally, I'm also minded to direct British Gas to contact Mr and Mrs L's home insurance provider to offer to reimburse the home insurer for the claim costs they've incurred. The home insurer may then be able to either remove or amend internal and external records if they've recovered their outlay from British Gas to reflect that they haven't paid out on a claim.

However, the home insurer may not be able to do this. So, if that is the case, and Mr and Mrs L need to disclose the home insurance claim at renewal(s), British Gas will need to reimburse the difference in policy premiums, with and without the claim added, if there is one.

But an exact time period to do this for, and the impact over that period is difficult to establish, as each insurer will look at risk differently based on their own criteria and risk rating. So, I think a period of five years is a fair and reasonable amount of time. I say this because some insurers in the marketplace won't consider claims which occurred more than five years ago, so at that point, the premium won't be impacted with some insurers.

Unless anything changes as a result of the responses to my provisional decision, I'm minded to conclude this is a fair and reasonable way, in all the circumstances of the case, to compensate Mr and Mrs L for the future impact on their insurance and premiums, if the home insurer is unable or unwilling to be reimbursed for their outlay, and/or amend internal and external records of the claim.

In addition to the impact on their future insurance, Mr and Mrs L (and family) have been significantly impacted as a result of the extensive flood damage and needing to make a claim to repair the damage. This has caused Mr and Mrs L, and family, significant distress and inconvenience over a period of time. This includes having to live with industrial dryers in their home, after it has been extensively stripped out, to ensure it is dry before repairs can be completed to the flooring and walls.

Given the impact, which I think could have been avoided if British Gas had followed up the next steps in February 2022, I'm also minded to conclude Mr and Mrs L should be compensated £750 for the distress and inconvenience caused here."

So, I was minded to uphold the complaint and to direct British Gas to:

- Reimburse Mr and Mrs L's £300 home insurance excess
- Add 8% simple interest from date of payment to date of reimbursement
- Approach Mr and Mrs L's home insurance provider, and offer to reimburse them for their outlay on the claim and repairs, and ask them to amend internal and external records to show this
- Or, if the home insurer is unable or unwilling to do this, reimburse the difference at each renewal for the additional premium Mr and Mrs L are charged for having a claim under their home insurance – subject to proof – for a period of five years
- Pay Mr and Mrs L £750 compensation

The responses to my provisional decision

Mr and Mrs L responded and agreed with the provisional decision. They outlined who their home insurer was and asked if British Gas would already have details to make contact with them.

British Gas responded to the provisional decision, but they didn't agree. They said the only way to find the issue was to go through the steps they did, and they don't agree their engineers have taken any incorrect actions. They also said their contractors couldn't access a neighbouring property without permission to gain access to the blockage.

British Gas also say the notes indicate the blockage was found on 31 March 2022, not 30 March 2022 as Mr and Mrs L allege.

In addition, British Gas say there is no evidence to support that Mr and Mrs L were told by their contractors that they'd be returning after 15 February 2022 as Mr and Mrs L allege. They say that what Mr and Mrs L allege shouldn't be accepted without proof being provided. And they outline that Mr and Mrs L should have pursued this with British Gas if they hadn't heard anything, given the timescale and the policy being reactive not proactive.

British Gas said Mr and Mrs L made a claim on their home insurance and any losses are incurred by the insurer, not Mr and Mrs L, so they say any interest would be due to the insurer. In addition, they say the household insurer would be able to pursue losses under subrogation rights, and if the household insurer thinks British Gas is responsible, then it is for them to claim against British Gas rather than British Gas approach the insurer.

In addition, British Gas says any increased insurance premium Mr and Mrs L have could be simply offset by changing insurer. And they say there is no basis for potential losses for a five-year period. They also say there is an assumption with no proof that losses will be incurred, and Mr and Mrs L have a duty to mitigate losses. British Gas also said there is no evidence premiums will increase, and they don't know what the claims history is already, which might already be affecting the insurance premiums.

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.

And I've thought carefully about the conclusions I came to in my provisional decision and the response to it. Having done so, my final decision remains the same, and for the same reasons.

Whilst I note what British Gas has said about the timeline of what happened and when the block was discovered, I explained in my provisional decision that this differed at points to what Mr and Mrs L had said occurred, and British Gas also hadn't acknowledged several additional visits happened during that time.

As outlined in my provisional decision, the information from British Gas about the visits from their engineers is limited. Mr and Mrs L have provided detailed summaries of what they say occurred, and their sequence of events. In cases like this, where the evidence is incomplete or contradictory, I'll reach my decision on the balance of probabilities – what I think is more likely than not. This is what I've done here in this case.

Whilst I note what British Gas has said, I'm satisfied with the conclusions I reached about what most likely occurred, and the sequence of events, as I outlined in my provisional decision. I also explained what this was, and the reasons why I reached this on balance, and I don't intend to repeat that again as my view, on balance, hasn't changed.

Overall, my final decision remains the same as my provisional decision and for the same reasons. I'm persuaded, on balance, that it was due to inactions by British Gas at earlier points which resulted in the bag not being identified or removed sooner, and this resulted in the extensive leak occurring which resulted in a claim under Mr and Mrs L's home insurance policy needing to be made for the extensive damage caused.

In response to the proposed direction outlined in my provisional decision, British Gas has said that any interest would be due to Mr and Mrs L's home insurer, not them. However, I don't agree with what British Gas says here. I'll explain why.

I outlined that Mr and Mrs L had to pay their £300 home insurance excess to make a claim, and I said I was minded to direct British Gas to reimburse that, with 8% simple interest from date of payment to date of settlement. It is Mr and Mrs L who are out of pocket £300 due to paying the excess, which if they hadn't needed to make a home insurance claim, they wouldn't have had to pay. So, it is Mr and Mrs L who have been deprived of that £300 for other purposes, so the 8% simple interest would be due to them on this amount, from date of payment to date of settlement.

British Gas has also said that if Mr and Mrs L's home insurer believes they are to blame then it is for them to approach British Gas directly to try and counter claim against them. However, the complaint I'm considering here is Mr and Mrs L's complaint about British Gas, and what led them to have to make a claim under their home insurance. So, my consideration here is what British Gas have done, and what is fair and reasonable in all the circumstances for British Gas to do to put things right.

And my decision on this point remains the same. I explained that in the first instance British Gas will need to approach Mr and Mrs L's home insurer to offer to reimburse the claim costs incurred and ask them to amend internal and external records to reflect this. And that direction remains the same. If Mr and Mrs L accept my final decision, they'll need to liaise with British Gas to provide details of the insurer and their policy and any information British Gas needs to be able to do this.

I also recognised in my provisional decision that Mr and Mrs L's home insurer may not be willing or able to do this. And I can't direct Mr and Mrs L's home insurer to agree to or accept this as this final decision and direction isn't about them. Therefore, I also considered what British Gas would need to do instead so that Mr and Mrs L are placed in the closest position as if a claim hadn't been made.

I outlined that instead, British Gas would need to reimburse the difference at each renewal for the additional premium Mr and Mrs L are charged for having this claim for a period of five years – subject to proof. I also said why I thought a period of five years was reasonable.

British Gas has made several comments in response to this:

- They suggest that any increased premium could be offset by simply changing providers
- They say there is no basis for a period of five years as there is an assumption that a loss would be incurred and I'm overlooking the fact Mr and Mrs L need to mitigate loss
- They say there is no evidence that the premiums will increase, and it is unknown what Mr and Mrs L's claims history is which could be impacting premiums

Firstly, I don't agree with British Gas' view that any increased premium could be simply offset by changing providers. I say this because the claim would be disclosable to other insurers too. So whichever insurer was potentially moved to, the claim would still be disclosable and be taken into account by the prospective insurer when assessing risk and premiums. Therefore, switching insurers wouldn't change or offset this claim being made.

I already recognised that it isn't known if there will be an impact on premiums at this stage. This is why I said in my provisional decision, subject to proof being provided, that this claim has caused an increase in premiums. This is likely easy to demonstrate the difference – with and without this home insurance claim specifically. And I think a period of five years is a reasonable period of time for the same reasons I explained in my provisional decision.

So, in summary, my final decision and direction remains the same as my provisional decision, for the reasons outlined in that, and above.

My final decision

It's my final decision that I uphold this complaint and direct British Gas Insurance Limited to:

- Reimburse Mr and Mrs L's £300 home insurance excess
- Add 8% simple interest from date of payment to date of reimbursement
- Approach Mr and Mrs L's home insurance provider, and offer to reimburse them for their outlay on the claim and repairs, and ask them to amend internal and external records to show this
- Or, if the home insurer is unable or unwilling to do this, reimburse the difference at each renewal for the additional premium Mr and Mrs L are charged for having a claim under their home insurance – subject to proof – for a period of five years
- Pay Mr and Mrs L £750 compensation

*If British Gas Insurance Limited considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr and Mrs L how much it's taken off. It should also give Mr and Mrs L 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 Mr L and Mrs L to accept or reject my decision before 18 May 2023.

Callum Milne
Ombudsman