

The complaint

Miss B complains about Aviva Insurance Limited's handling of a claim made under her home insurance policy.

What happened

Miss B has home insurance underwritten by Aviva which covers buildings, contents, and home emergencies amongst other things.

She called Aviva in December 2022 because her heating wasn't working. Aviva's agent told Miss B's representative they weren't going to cover the emergency because hot water cylinders weren't covered under the policy.

The agent attempted to put Miss B through to the repairs team so that they could attend and quote for the necessary work, but the call dropped. It appears the same happened later when Miss B or her representative called back.

Miss B contacted another company, who came to carry out the necessary repairs. They replaced both the hot water cylinder and Miss B's boiler.

Miss B then contacted Aviva again to report the breakdown of the boiler. Aviva sent an engineer, who found that the boiler had already been replaced and disposed of.

Miss B wanted Aviva to contribute £500 to the cost of the replacement boiler, as per the terms of the policy. Aviva said they wouldn't make a contribution because, as the policy terms stated, they'd only do so if their engineer had condemned the boiler.

Miss B complained to Aviva about this. And when Aviva maintained their stance, she brought her complaint to us.

Our investigator looked into it and thought Aviva should have sent out an engineer to look at the boiler when Miss B's representative first called them.

And, in short, they said Aviva should pay the £500 contribution for the boiler replacement and pay Miss B £1,000 in compensation for the trouble and upset she'd been caused as a result of Aviva's error.

Aviva disagreed and asked for a final decision from an ombudsman.

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.

There's no dispute here about what Miss B's policy says. Aviva were right to say they didn't cover issues with the hot water cylinder. All agree there's a £500 contribution to a replacement if a boiler is deemed beyond economical repair. And all agree that's dependent on Aviva condemning the boiler, according to the policy terms.

There's also no dispute at all about the facts of the case. The telephone conversations between Miss B and/or her representative and Aviva's agent are recorded. Aviva told Miss B the issue wasn't covered and advised her to get the repairs carried out and pay for them herself. And Miss B did that, using a different company to replace both the hot water cylinder and boiler.

This case turns entirely on exactly what happened in that first telephone conversation - exactly what Miss B's representative told Aviva's agent and what the agent then inferred from what they'd been told.

Aviva say that Miss B's representative told them the issue was down to a leak from the hot water cylinder – or at least inferred that by answering Aviva's agent's questions in the way they did.

They say they were therefore right to decide not to attend the property to inspect the boiler, because the issue was caused by a fault in the cylinder and the cylinder is not covered under the terms of the policy.

Miss B's case is that she had an emergency. Despite telling Aviva her heating had failed, her cylinder was leaking *and* the boiler wasn't working, she was told the issue wasn't covered and she needed to pay for the repairs herself. So, she had the repairs carried out as soon as possible.

The boiler was replaced, having been found to be faulty. The boiler should have been covered under the policy. Therefore, she's entitled to the £500 contribution under the policy terms.

And if Aviva didn't attend to inspect and/or condemn the boiler, that was their fault, and she was left with no choice but to have it replaced as soon as possible by the other company.

Because it's so important in this case, it's worth setting out below exactly what was said in the initial telephone conversation between Miss B's representative and Aviva's agent. After the preliminary introductions, the relevant parts of the conversation went as follows:

Rep: The boiler cylinder has... there's water dripping out of it and it's gone through to the ceiling downstairs. I've had a friend come and look at it and he says the boiler is completely gone, we've no hot water

Agent: Is it the boiler or cylinder that's leaking?

Rep: The cylinder itself.

[There's then some discussion about containing the leak and about the cylinder's make and model]

Agent: I'm just checking the policy terms, I don't think it's covered but let me double check...

[There's then some discussion about the make, model and age of the boiler]

Agent: Yeah it isn't covered, the [cylinder] under the policy I'm afraid.

Rep: I thought we had full cover?

Agent: Under the Home Emergency we cover the boiler but not the [cylinder], there's

an exclusion under the policy.....

Our investigator's view was that the representative (in the first sentence of the excerpt above) tells the agent that the cylinder is leaking *and* the boiler is broken down *and* the hot water (and therefore heating) is off.

Therefore, the representative was reporting an emergency (lack of hot water and heating) which may have been caused – at the very least in part – by the breakdown of the boiler – which is covered under the policy. And so, Aviva should have sent an engineer to assess the problem.

And if they had done that, as they should have, they may have condemned the boiler – and contributed the £500 to its replacement. In fact, it's likely they would have done that, because the engineer who eventually did the repairs replaced the boiler as well as the cylinder. If that's still in question, it's only because Aviva erroneously chose not to attend.

Aviva questioned that view. They say the agent – after questioning the representative about the circumstances – swiftly and accurately identified that the problem was with the cylinder, which after all *was* leaking at the time. And correctly advised that there was no cover.

Most recently, Aviva's claims agent's manager put that argument in this way:

"The customer mentioned the boiler for a brief moment, however [the agent] clarified and asked if the issue was with the boiler or the cylinder, to which he confirmed the issue was the cylinder."

In my view, that is absolutely the crux of the matter. But I think Aviva have misinterpreted the conversation. The representative doesn't confirm that *the issue* is with the cylinder. Rather, he confirms it's the cylinder that is leaking – in answer to the direct question whether it's the boiler or cylinder that's leaking.

In essence, I think Aviva's agent at the time – and Aviva now – assume that because the cylinder is leaking, that is the single root cause of the emergency reported by Miss B. And therefore, there is no cover.

I don't think that assumption is justified. The representative said in the conversation that the boiler wasn't working. The engineer who eventually dealt with the problem replaced the boiler – which also suggests it wasn't working.

It is entirely possible then – if not most likely in fact – that the boiler was broken down when the call was made. And the only reason we can't say that with any certainty now is because Aviva didn't go out and inspect the boiler when Miss B made the call.

In summary, I agree with our investigator's view. Faced with an emergency call from a member of the public, with no expert knowledge of boilers, cylinders or heating systems, Aviva's agent made an assumption about the cause of the emergency.

That wasn't a far-fetched or ridiculous assumption, but it did ignore what Miss B's representative was clearly saying – that the boiler had broken down in addition to the cylinder leaking.

Instead of making that assumption, I'm satisfied Aviva should have arranged for an engineer to attend to inspect the boiler and the heating system. If they had, there would be no dispute now about whether the issue was caused by the cylinder, the boiler, or both.

Putting things right

Miss B - who Aviva knew to suffer from a health condition exacerbated by cold and stress – was left without heating in her house for around two weeks in the middle of winter.

That was partly due to Aviva's error with the initial call. It was also partly due to Aviva failing to put Miss B in touch with their repairs team – after the initial call and then subsequently when Miss B tried to contact them.

I'm satisfied it's most likely the issue would have been resolved significantly sooner had Aviva attended on the day Miss B made the initial call reporting the emergency. And Miss B would not then have spent two weeks without heating.

It's more likely than not, on the basis of the evidence we have, that Aviva – had they attended – would have been obliged to either provide alternative accommodation for Miss B from the outset, or at the very least provide her with an alternative means to heat her home temporarily.

Miss B also experienced poor customer service when she later contacted Aviva. The telephone calls she made weren't handled entirely professionally and sensitively by Aviva's agents.

Given the trouble and upset Miss B was caused by Aviva's errors, and the fact this was exacerbated by the health condition Aviva knew about, I'm satisfied that £1,000 in compensation for her trouble and upset is fair and reasonable in the circumstances.

For the reasons I've set out above, it also appears most likely to me that the boiler was broken down beyond economic repair and would have been covered under the policy. In which case, Aviva should also pay Miss B the £500 contribution set out in their policy terms for a replacement boiler.

I know there is an exclusion or condition in the policy which says the £500 is payable only if Aviva's engineer condemns the boiler. But in this case, Aviva's error in not attending when the emergency was reported led directly to Miss B having to replace the boiler before they'd had the chance to inspect (and/or condemn) it.

In those circumstances, whatever the policy terms say, it would be entirely unfair to Miss B for Aviva not to pay the £500 contribution to the replacement boiler.

I understand Miss B paid for her new boiler using interest free credit. In which case, obviously, I won't be asking Aviva to cover any interest charges.

Our investigator said Aviva should pay any charges Miss B incurs for paying back the money early. I don't think there will be any such charges, given that there's no interest. If by any chance there are, Miss B can simply bank the £500 and use it when required and will be no worse off as a result.

My final decision

For the reasons set out above, I uphold Miss B's complaint.

Aviva Insurance Limited must pay Miss B £500 as a contribution to the replacement of her boiler and pay her a further £1,000 in compensation for her trouble and upset.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept

or reject my decision before 31 August 2023.

Neil Marshall
Ombudsman