

## **The complaint**

Mrs P complains about Domestic & General Insurance Plc (DGI) and the replacement oven she was provided after making a claim on her appliance insurance policy.

Mrs P has been represented by her daughter through much of the claim and complaint process. So, for ease of reference, I will refer to any actions taken, or comments made by both Mrs P and her daughter as though they were made by "Mrs P" throughout the decision.

## **What happened**

In December 2021, Mrs P took out an insurance policy underwritten by DGI, intended to cover her oven should it break down. Unfortunately, it did break down in March 2022 and so, Mrs P contacted DGI to make a claim.

After an inspection, it was decided Mrs P's oven couldn't be repaired as a required part was no longer available. So, DGI accepted the claim and contacted Mrs P to arrange a replacement.

But Mrs P wasn't happy with the replacement options DGI originally provided. And the oven models Mrs P would consider weren't available to be ordered with DGI's supplier, who I'll refer to as "X". So, Mrs P agreed to wait until an oven she was happy with became available.

Mrs P and DGI continued to communicate sporadically about this over the next months until November, when Mrs P agreed to a replacement. The replacement oven was ordered on 22 November, with delivery and installation booked in for 29 November, a week later. At the time of ordering, DGI had agreed to waive the upgrade fee and disposal/installation costs, which totalled £359.98. But this payment was taken from Mrs P despite this agreement.

Mrs P's replacement oven was delivered, and installed, on 29 November. But Mrs P was unhappy with the features of the oven, including the lack of telescopic rails and rotating handles. So, on 5 December, Mrs P contacted DGI to ask that the oven be replaced. But DGI explained they were unable to agree to this request, as the oven had been installed and so, X would no longer accept a return. Mrs P was unhappy about this, so she raised a complaint.

Mrs P didn't think DGI's refusal to replace the new oven was a fair one. She didn't think it was made clear to her that having the oven installed would impact her ability to return it, should she be unhappy. And Mrs P explained she required certain features to enable her to use the oven, due to her vulnerabilities. So, Mrs P wanted DGI to arrange a replacement of the oven, with one that had the exact same features as her original oven insured on her insurance policy.

DGI responded to the complaint and didn't uphold it. They thought they had provided Mrs P with a reasonable replacement to her original oven insured on the policy. And they felt they had provided Mrs P with a reasonable amount of information during the replacement process to ensure the oven was one she would be happy with. DGI also felt they'd acted fairly by agreeing to waive the upgrade, installation, and disposal costs, which they didn't need to do.

So, as X would no longer accept a return due to the boiler being installed, DGI didn't think they needed to do anything more. Mrs P remained unhappy with this response, so she referred her complaint to us.

Our investigator looked into the complaint and didn't uphold it initially. They thought the replacement oven delivered to Mrs P was the oven she had chosen. And they were satisfied the oven was a reasonable replacement, that fell in line with the obligations set out within the terms and conditions of the policy. They also recognised that, as the oven had been installed, X would no longer accept a return as stipulated in the return rights sent to Mrs P by DGI. So, they didn't think DGI were unfair to refuse arranging another replacement. Our investigator also acknowledged DGI's waiver of the upgrade fee, disposal fee and installation costs, which they thought was both fair and reasonable, showing DGI attempting to act in Mrs P's best interests. And because of the above, they didn't think DGI needed to do anything more.

Mrs P didn't agree. She provided evidence to show she had paid the £359.98 and that this fee hadn't been waived our investigator had stated. And she provided several comments explaining why she disagreed with our investigators view. These included, but are not limited to, Mrs P's belief that she wasn't made aware before taking delivery of the oven that installing it would impact her right of return. Mrs P also made clear why she felt the replacement oven wasn't suitable and why she felt this wasn't an appropriate consideration, taking into account the fact she'd agreed to pay an upgrade fee.

Our investigator considered these comments. And they returned to DGI explaining they had seen evidence to show Mrs P had paid the £359.98 fee, even though it should've been waived. So, our investigator recommended DGI refund this amount, plus 8% simple interest from the date of payment to the date of refund, to recognise DGI's failure to waive the fee as they had agreed. DGI accepted this recommendation. And our investigator thought this was a fair way to resolve the complaint, as they maintained their position that DGI had provided an adequate replacement which, as it had been installed, could no longer be replaced. Mrs P remained unhappy with this, so the complaint has been passed to me for a decision.

### **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.

Having done so, I'm upholding the complaint as I will be directing DGI to do something that hadn't been done at the time of their final response. I've focused my comments on what I think is relevant. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

First, I want to recognise the impact this complaint has had on Mrs P. I appreciate Mrs P took out the policy with DGI to assist her both practically and financially in a situation such as the one she found herself in. So, as Mrs P feels she has been left with an inadequate replacement oven after claiming on this policy, I can understand why she would feel as though DGI have treated her unfairly and want them to do something differently.

But for me to say DGI should do something more, such as arrange for another replacement, I first need to be satisfied DGI have made an error that led to Mrs P being left with an oven that wasn't suitable. So, I'd need to be satisfied DGI failed to act within the terms of the policy when processing Mrs P's claim as they did. Or, if I think they did act within these, that they acted unfairly when doing so. And in this situation, when considering the replacement of the oven and the model Mrs P now has in her home, I don't think that's the case.

I've seen the terms and conditions of the policy Mrs P held. These explain that "*In some situations we will arrange to replace your product instead of repairing it (for example where we cannot repair it, or we decide that it is uneconomical for us to repair your product).*" In Mrs P's situation, it's accepted that her original, insured oven couldn't be repaired. So, I think DGI acted fairly, and in line with the policy, when beginning the replacement process.

The terms and conditions go onto explain that "*within these circumstances, we will arrange to replace your product with one of a same or similar make a technical specification*". In this situation, it's accepted the same oven Mrs P held wasn't available to be ordered through DGI's supplier, X. So, I think DGI were fair to enter into communication with Mrs P to agree a suitable replacement. And, that this replacement should be one of a similar make and technical specification. Crucially, I don't think it had to be exactly the same, with exactly the same specification as, due to continuing technological advancement, this can sometimes be impossible.

I've seen between March and November 2022, DGI and Mrs P spoke on several occasions about different models that Mrs P could select, and what any upgrade fee for these may be. And I've listened to the call Mrs P had with DGI on 22 November 2022, where the replacement oven was ordered. I recognise this call was handled between Mrs P's daughter and DGI but, as I explained above, I will refer to any actions or comments made by Mrs P's daughter as though they were made by Mrs P in her capacity as Mrs P's representative.

On this call, Mrs P provided the oven make and model number she wished to purchase to replace the original oven. At no point during this call do I think DGI attempted to influence Mrs P into taking this decision. In fact, I think DGI worked in Mrs P's best interests by agreeing to reduce the upgrade fee, to make the model Mrs P wanted a more affordable option.

And I'm satisfied from DGI's system notes, and the order confirmation letter sent to Mrs P, that the oven Mrs P received was the same model as the one she requested on this call. So, I'm satisfied DGI acted in line with the terms of the policy as I'd expect them to, and that they acted fairly when doing so.

But I'm aware when the oven was received by Mrs P, it didn't have certain features she expected. And Mrs P has sent screenshots of X's website, which she feels evidences this. I first want to make it clear that DGI's obligations under the policy were to provide Mrs P with a replacement oven of a similar specification. And that crucially, an oven specification is different to the features an oven possesses. Mrs P is unhappy that the oven didn't have telescopic rails, rotating handled and a white interface for the date and time. But having reviewed X's website, the same page as that sent by Mrs P in screenshot form, I can see all of these would be referred to as features. And crucially, in the "features we love" section, the website states clearly that telescopic rails weren't included on the model of oven Mrs P selected.

It also describes the handle as "fixed" with no reference to any rotation and while it refers to the oven having an electronic interface, it doesn't state what colour this would show. But in a photo on the page, the time shows in a red colour, as Mrs P has confirmed it does since it's been installed.

So, based on the above, I don't think the oven Mrs P received was in any way different from the one she asked DGI to supply. And I don't think the features Mrs P are unhappy with means the specification of the model is significantly and materially different to the original oven she insured under the policy. And under the terms of the policy, DGI's obligation was to provide an oven of a "*similar*" model and specification. So, I don't think I can say DGI have acted unfairly, or outside of the policy terms, when supplying Mrs P with an oven that has

some slightly varying features.

If Mrs P is unhappy with the way the model is described on X's website, this would be something that Mrs P would need to raise directly with X as DGI are unable to control X's website, the information it provides and how clear this information is. So, DGI aren't responsible for any concerns around this.

I've then turned to the return process, and whether DGI have acted fairly when refusing to replace the oven after Mrs P made them aware of her unhappiness. I've seen the order confirmation letter sent to Mrs P on 22 November 2022. As Mrs P has provided this to our service, I'm satisfied DGI did send it. And from the system notes, I'm satisfied it was sent on the day it was dated. So, while I recognise Mrs P feels she didn't receive this until after the oven had been delivered, I don't think DGI were able to control the time it took the postal service to deliver the letter to Mrs P. And I think a week between the letter being sent, and the oven being delivered, was a reasonable amount of time for DGI to allow.

Within this letter, it contained Mrs P's return rights with the supplier, X. And within this it explains that Mrs P was able to return the oven as long as DGI were notified within 14 days of delivery, whether or not it was packed, or unpacked. So, I don't think X's delivery agent unpacking the oven made any difference in this case.

But it also clearly explains that, even when an oven has been unpacked, Mrs P would only be able to return it if it hadn't been installed or used.

In this situation, Mrs P has confirmed the oven was installed. So, because of this, X would no longer accept a return of the oven in their role as the supplier. And I wouldn't expect DGI to then agree to ordering another replacement, as they would then be left at a financial loss, with an oven X wouldn't take back, when the replacement oven already installed was of a similar make and specification, as I've already explained above.

So, I don't think I can say DGI have acted unfairly when not agreeing to arrange for a second replacement for Mrs P. And so, I don't think they need to do anything more regarding this aspect of the complaint.

But I do note that DGI have accepted they did agree to waive the upgrade fee, disposal fee and installation fees applicable to Mrs P as a gesture of goodwill. And it's not in dispute that Mrs P continued to pay the amount of £359.98, when she shouldn't have done. So, this is where I think DGI have acted unfairly as, even though they didn't need to waive this amount, I'd expect them to follow through with this waiver when they offered to do so, as it created an expectation for Mrs P. As I think DGI have acted unfairly here, I've then turned to what I think they should do to put things right.

### **Putting things right**

I note DGI have already accepted Mrs P shouldn't have paid this amount and they have agreed to refund the amount she paid, to ensure she is back in the position she should've been, had they applied the waiver correctly.

And I note our investigator recommended DGI pay 8% simple interest on this amount, from the date of payment to the date of refund, to recognise the length of time Mrs P has been without access to these funds. I think this is a fair direction that falls in line with our service's approach and what I would've directed had it not already been put forward. It recognises the length of time Mrs P was unable to use these funds. But I don't think any further award is necessary, as I think this waiver was offered as a gesture of good will and in Mrs P's best interests, when DGI were under no obligation to offer it. I'm glad to see DGI have already

agreed to do this. But, as this direction and agreement has come after DGI's final response to Mrs P's complaint, it's one I must now direct as part of my overall decision.

### **My final decision**

For the reasons outlined above, I uphold Mrs P's complaint about Domestic & General Insurance Plc and I direct them to take the following action:

- Refund Mrs P £359.98 plus 8% simple interest from the date she paid this amount, to the date of refund.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 30 August 2023.

Josh Haskey  
**Ombudsman**