

The complaint

Ms A complains British Gas Insurance Limited unfairly declined a claim she made on her homecare policy.

What happened

In Spring 2023, Ms A made a claim on her homecare policy for a leak from a pipe. British Gas attended the property but then declined the claim. It said Ms A's property was a commercial property, and as such the repair was excluded under the policy. It also cancelled the policy for the same reason.

Ms A complained, she said she'd held the policy for a number of years and British Gas had attended other call outs. She said the property wasn't a commercial property, it provided assisted living for vulnerable adults. She said if it was cancelling her policy then she wanted a refund of the premiums paid.

British Gas didn't change its position on the claim, but it refunded three months' worth of premiums. It said this refund was for premiums paid since the last successful claim was made on the policy. Unhappy with its response, Ms A complained to this service.

Our investigator thought British Gas had acted reasonably in declining the claim. He said as Ms A rented the property out to a company, it was fair it was considered 'commercial'. He also didn't think British Gas needed to refund any more premiums since Ms A had had the benefit of the cover, even when she shouldn't have done.

Ms A asked for an ombudsman to consider the case, so the matter has come to me to decide.

I've already told both parties that I intend to reach a different outcome to that of our investigator. I said having read the policy, I don't consider British Gas has acted fairly in cancelling the policy or declining the claim.

I said it appears British Gas has relied on the following exclusion to decline the claim:

'Domestic use

Your product only includes cover for your property if it is used for normal day-to-day living purposes, including use for home office or activities of a domestic nature, including renting, and not where the main purpose of the property is for commercial purposes'

I said whilst British Gas has said the property is used for 'commercial purposes' there is no definition of that term. And having looked at what the property is used for, Ms A has shown it is used for assisted living. I said I consider this to be '*activities of a domestic nature*' and therefore not caught by this exclusion.

So I said that British Gas should reimburse Ms A what she paid for the work to be done, which was £560. I also set out that as British Gas had unfairly cancelled the policy, it should remove any record of it cancelling that policy from internal and external databases. Having a cancelled policy can have implications on future policies, so by removing it from any databases, it removes the need for Ms A to declare she's had a policy cancelled by a business when taking out future insurance.

In addition, I said given I'm asking British Gas to pay the claim, it means it doesn't need to refund the three months' worth of premiums that it had done to Ms A. As otherwise Ms A would benefit from a pay out under the policy, whilst also receiving a refund for the policy. So I said British Gas could deduct any refund of premiums made from the settlement amount.

Ms A accepted the above but said she should receive compensation for having the policy unfairly cancelled, and she said she'd like the policy reinstated.

British Gas said included in Ms A's invoice was work to treat and repaint a wall. It said under the policy this wouldn't have been covered, so it should be able to deduct this amount from the settlement.

In response to British Gas' comments, I said whilst the redecorating wouldn't be covered under the policy, I also consider British Gas should have carried out this repair as part of the claim. And Ms A would now have to go back to the contractor [who carried out the work in August] to ask them to strip out the costs for the painting and repair of the damaged wall. This would put her to more inconvenience, which she wouldn't have had to do if British Gas had carried out the repair. I also don't think this would be a significant cost in relation to the damage that would be covered under the policy. So I consider the fair and reasonable outcome in this case would be for the full invoice to be paid.

I also said British Gas should reinstate the policy. It said this wasn't possible to reinstate the policy, but it could set her up with another policy which she could then cancel at any time.

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 reviewed everything again, I'm satisfied British Gas acted unfairly in declining the claim and cancelling the policy, for the same reasons as set out above.

Based on what I've said above, I think the fair and reasonable outcome is that British Gas pays for all of Ms A's invoice of £560. And as Ms A has been without these funds for a number of months, British Gas should add 8% simple interest onto any payment from the date of the invoice until the date of settlement.

However, British Gas can deduct from this amount any refund it gave for the premiums paid in April, May and June 2023. For the reasons set out above Ms A can't benefit from a policy that she didn't pay for.

British Gas has said it isn't possible to restart the same policy on its systems. I accept that might be the case. But her policy should have run until May 2024. So British Gas needs to put Ms A back in the position she would have been in had it not unfairly cancelled her policy. So it must offer Ms A a policy at the same price and terms as she would have had at the point of cancellation. British Gas has explained that new policy could be cancelled at any point, if she still wanted it to end in May 2024 for any reason.

Finally, as it follows that I don't think British Gas cancelled the policy fairly, I still consider it should remove any record of it cancelling that policy from internal and external databases. So Ms A doesn't need to declare a cancelled policy when taking out any future insurance.

Ms A asked if I'd consider compensation for the worry and inconvenience that cancelling the policy has caused her. I do consider it would be inconvenient for her to have had to arrange her own repair, and have a policy cancelled. So in addition to the above, British Gas should pay £100 compensation to recognise the distress and inconvenience caused.

My final decision

My final decision is that I direct British Gas Insurance Limited to:

- Refund Ms A for the invoice she paid, less any amount it's already refunded to her for premiums paid
- Add 8% simple interest on that amount from the date of the invoice, until the date of settlement.*
- Remove any record of it cancelling the policy from its internal and external databases.
- Contact Ms A to set up a policy at the same price and on the same terms as she had at the point her policy was cancelled.
- Pay Ms A £100 compensation for distress and inconvenience.

*If British Gas Insurance Limited considers that it is required by HM Revenue & Customs to withhold income tax from that interest, it should tell Ms A how much it's taken off. It should also give Ms A a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms A to accept or reject my decision before 11 January 2024.

Michelle Henderson
Ombudsman