

The complaint

Ms A is unhappy with the decision made by Evolution Insurance Company Limited (EICL) following a claim attempted under her home essentials home emergency policy.

EICL is the underwriter of this policy. Part of this complaint concerns the actions of the agent. As EICL has accepted it is accountable for the actions of any agents instructed by it during the course of the claim, in my decision, any reference to EICL includes the actions of any third party instructed.

What happened

Ms A took out a home emergency policy with EICL. The policy summary explained the policy excess per claim is £95. The policy terms and conditions explained:

HOME ELECTRICS:

What we aren't able to cover:

- *Maintenance and Improvement work;*
- *Replacement of the fuse box;*
- *Complete system rewire;*
- *Repairing or replacing: - Electrical appliances, showers and their parts, burglar alarms, camera systems and electrically powered garage doors*

The policy document also included the following definitions:

Excess: As shown on your schedule, a payment by you towards each claim if you've selected a product with an excess or because your boiler is over 11 years old. Payment must be made before our engineer will attend. If you choose not to pay, we will not proceed with your claim

Claim: a request for a repair or assistance under the insurance features of this agreement.

Ms A contacted EICL to register a claim, saying that one socket connected to the shower wasn't working. Ms A was told that shower fixtures and appliances are not covered. Ms A wanted EICL to send an engineer out to inspect the issue. EICL agreed to do this. EICL informed Ms A that she would be charged for the call out. Ms A paid £95 for the engineer's visit to go ahead.

The engineer that attended determined that there was a '*Fault on cable supplying the shower, neutral cable there is 240V, there is no obvious sign of damaged so can only see pulling a new supply to show from switch can resolve this issue. No RCD protection.*'

Ms A was told the damage wasn't covered in line with the terms and conditions of her policy. Ms A was unhappy with EICL's response, and brought her complaint to the Financial Ombudsman Service.

The investigator found that EICL's decision not to pay Ms A's claim was reasonable, and in line with the policy terms. But the investigator also determined that EICL should refund the £95 excess paid by Ms A because no repairs had been carried out. The investigator also asked that EICL pay 8% simple interest from 16 June 2023 until the payment is made to Ms A in settlement of the complaint.

EICL disagreed with these findings saying '[Ms A] *agreed excess fee of £95 was chargeable for the engineer to make an attendance irrespective of whether a repair was completed. This would have been payable had we attended and subsequently identified that [Ms A's] claim was not covered.*'

Ms A accepted the investigator's findings. As the complaint couldn't be resolved, it has been passed to me for 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.

I'd like to reassure the parties that although I've only summarised the background to this complaint, so not everything that's happened or been argued is set out above, I've read and considered everything that has been provided. 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 has affected what I think is the right outcome.

The outstanding dispute relates to whether EICL has acted fairly and reasonably in charging Ms A the policy excess following an engineer attending to her property. So I've focused my decision on this outstanding complaint.

EICL say the policy excess would be payable '*irrespective of whether a repair was completed*'. Ms A says no repairs were carried out, and so the policy excess has been charged unfairly. I have seen that the policy terms define excess as '*Excess: As shown on your schedule, a payment by you towards each claim.*' The definition of claim says '*Claim: a request for a repair or assistance under the insurance features of this agreement.*'

It's not disputed that Ms A requested that an engineer attend to her property to inspect the issue with her shower, and complete any necessary repairs to resolve the issue. An engineer did attend to Ms A's property. I've considered the policy terms and the circumstances of the claim. The policy terms refer to an excess being payable before an engineer attends. The definition of excess also says that this amount is '*a payment by you towards each claim.*' I'm persuaded the reference to '*towards*' suggests that this amount is a contribution by the policyholder for the cost of the claim. But it's evident that no repairs were completed. In applying our remit of fair and reasonable, I'm satisfied that Ms A derived no benefit from the policy after paying an excess, but having an engineer complete no repairs.

The policy excess wasn't designed to be a call out charge or equivalent. This payment was taken from Ms A to secure against the cost '*towards each claim.*' But as no repairs were completed, I'm not persuaded there is a cost payable by Ms A towards her claim. Because of this, EICL should return the policy excess, plus interest to represent the time Ms A has been without this money, in settlement of this complaint.

Putting things right

EICL should return Ms A's policy excess of £95, and pay 8% simple interest from 16 June 2023 until the payment is made to Ms A.

My final decision

For the reasons provided I uphold this complaint. Evolution Insurance Company Limited must follow my directions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms A to accept or reject my decision before 24 May 2024.

Neeta Karelia
Ombudsman