

## The complaint

Mr S has complained about the amount he was offered by Aviva Insurance Limited (Aviva) to settle his claim for a faulty shower.

I have previously issued a provisional decision in this case and received further information from Aviva which I will refer to below.

## What happened

Mr S's electric shower became faulty as it would often run cold. He contacted Aviva with whom he had an insurance policy covering electrical fittings in his home. Aviva sent an engineer who checked whether there was a fault with the power supply to the shower. Having determined that there was no fault here, he assumed that the shower unit had a fault and deemed it beyond economical repair. He didn't attempt a repair. He offered Mr S a replacement shower. Mr S's existing shower was a 9.8kw Mira Azora and Aviva offered him an 8.5kw Bristan Cheer as a replacement. It said this could operate without any changes to the existing wiring.

Mr S wasn't happy with the replacement shower that Aviva offered him as he says his existing shower was a top of the range shower and he didn't want what he considered to be a lesser shower as a replacement. He wanted one that was like for like with his existing shower. A different shower would also require different fittings to his existing shower unit and he says his shower cubicle had recently been updated.

Aviva referred to the following term of Mr S's policy:

*"Shower not repairable*

*If an electric shower is not repairable under the policy, a replacement of similar functionality will be offered. However, if the property wiring requires an upgrade (in order to meet the current electrical wiring regulations and electrical safety standards), a £200 cash payment will be provided."*

As Mr S wanted a like for like shower and wasn't happy with the replacement offered, Aviva offered him £200 cash to enable him to replace his shower with one of his choosing. It explained that this payment is only normally given if a new shower can't be fitted because the wiring needs to be upgraded to accommodate the new shower.

Aviva has said that Mr S accepted the payment of £200, and a payment was issued to him.

Mr S says he isn't satisfied with this amount as he says it doesn't cover the cost of a like for like replacement shower. He's provided a quote from the manufacturers of his existing shower to supply and fit a new one of the same model for £509, although it's not clear if this includes VAT. He's therefore not satisfied with only receiving £200. He brought his complaint to this service.

Our investigator's view was that it was likely that parts would've been needed to repair the shower, and that he didn't consider that Aviva had acted unreasonably by not repairing the shower with reference to the following policy term:

*"What isn't Covered? (see also the General Exclusions)  
k) repairing an electric shower if parts are needed to effect the repair (in which case a replacement electric shower unit or alternative cash value may be offered)."*

Mr S didn't agree with our investigator's view and asked that his complaint be referred to an ombudsman. It was referred to me for a final decision from this service, but as my provisional view of this complaint differed from that of our investigator, I issued a provisional decision. Having received further information from Aviva, I'm now issuing my final 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.

When making a decision as to whether Aviva has acted fairly and reasonably towards Mr S when assessing his claim, I need to take into consideration what Mr S's policy says.

Mr S says he wants a like for like replacement shower and that his policy doesn't say this is excluded. Aviva on the other hand points to a policy term that suggest that it is, namely:

*"The following are also excluded from cover and therefore the Underwriter will not be liable for any of the following:*

*"like for like replacement of parts. Our engineer can fit an alternative part supplied by you (so long as it complies with British Standards and regulations) (e.g. a switch or tap), however this part will not be guaranteed by us."*

The policy also says:

*"Replacement Parts  
Where we replace parts, these will be HomeServe approved standard alternatives. They will provide similar functionality but not necessarily be identical, the same make and model or same type of fitting".*

I consider that the relevant policy wording is unclear and ambiguous. The reference to like for like replacement refers to the replacement of parts, and states that replacement parts need not be identical or the same make or model. It gives as an example a switch or a tap. In response to my provisional decision, Aviva said that it regards a shower unit as a "part" because it treats it as such. It therefore follows that it can be substituted by another "part" with similar functionality. I'm not persuaded that an electric shower unit is itself a "part" and therefore falls into the same category as a switch or a tap and can be replaced with any other shower unit irrespective of style or power. What constitutes "similar functionality" is subjective.

Aviva relies upon exclusion k) under *"What isn't Covered?"*

*k) repairing an electric shower if parts are needed to effect the repair (in which case a replacement electric shower unit or alternative cash value may be offered)."*

The policy also states:

*“If an electric shower is not repairable under the policy, a replacement of similar functionality will be offered. However, if the property wiring requires an upgrade (in order to meet the current electrical wiring regulations and electrical safety standards), a £200 cash payment will be provided.”*

Despite the references to repairing electric showers in the policy terms referred to above, Aviva says that it doesn't repair electric showers and that this is clear from exclusion k). I don't agree that this is what exclusion k) says. If Aviva doesn't repair electric showers, this should be explicitly stated in the policy as it is a significant exclusion.

Aviva's position is that if a replacement shower unit requires an upgrade to the wiring, a £200 cash payment will be provided instead of a replacement shower unit or alternative cash value, not in addition to it. I consider this to be at odds with the reference in exclusion k) to the “alternative cash value” that might be offered instead of a replacement electric shower unit. I don't consider £200 to be a fair alternative to the supply and fitting of a new shower unit to replace a high specification one.

As to the replacement shower unit, I've considered what is fair when considering the meaning of “similar functionality”. I don't think it's fair or reasonable for Aviva to expect Mr S to accept a shower unit that's of a lower specification to the one it's replacing. I think to offer him an 8.5KW shower to replace a 9.8KW shower is unreasonable. I consider that it should offer him a shower unit that is the same as, or comparable to, or better than, his existing one, or to pay him a sum that would allow him to source something comparable that he is happy with.

Nor do I think it fair of Aviva not to take into consideration that another make or model that it offers might require different fittings which might be incompatible with those of the existing shower unit and therefore damage what Mr S says is a newly renovated shower area and might expose him to additional costs.

My conclusion is that Aviva has not treated Mr S fairly or reasonably in offering him £200 when the cost to replace his existing shower unit is quite a bit more than this. He has obtained a quote for the supply and fitting of an identical shower unit for £509. I consider that the fair and reasonable outcome to Mr S's complaint is for Aviva to supply and fit a replacement shower unit comparable to the one it is replacing, or pay him the alternative cash value.

I should add that in its response to my provisional decision, Aviva raised an issue with the wiring for Mr S's existing shower which it has suggested may be inadequate for a replacement shower of the same make and model as his faulty one. This was the basis for Aviva's payment of £200. In my view any rewiring that is necessary is something that Mr S will have to address when the replacement shower that he selects is fitted, which he will need to arrange.

As Aviva has already paid Mr S £200, I consider Aviva should pay Mr S a further £309 to cover the additional cost of replacing his existing shower in line with the quote he obtained in August 2023. If Mr S can provide evidence that that quote has since increased, or didn't include VAT, Aviva should pay Mr S that higher sum.

### **My final decision**

For the reasons I've given above, I'm upholding Mr S's complaint.

I require Aviva Insurance Limited to pay Mr S £309 or such higher sum as may be evidenced

by Mr S by reference to a revised quotation.

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

Nigel Bremner  
**Ombudsman**