

## **The complaint**

Mr O complains that Domestic & General Insurance Plc (D&G) declined a claim made under his home emergency insurance policy.

## **What happened**

Mr O has a home emergency insurance policy with D&G which amongst other things, provides cover for boiler breakdowns.

In December 2023 Mr O contacted D&G as his boiler had stopped working. An engineer attended and said replacement parts would need to be ordered. As Mr O hadn't heard anything several days later, he contacted D&G for an update.

D&G told Mr O that his claim had been cancelled and declined due to sludge in the system causing the breakdown, which is excluded under the policy. Mr O complained to D&G about their decision. Whilst D&G maintained the claim declination, they offered Mr O £70 for not telling him his claim had been cancelled and declined until he contacted them for an update.

As Mr O remained unhappy, he approached the Financial Ombudsman Service.

One of our investigators looked into things but he didn't uphold the complaint. He said the engineer had diagnosed the cause of the boiler breakdown was sludge and he was persuaded by their conclusions. As sludge isn't covered under the policy, he didn't think D&G had unfairly declined Mr O's claim. He also said the £70 compensation offered was fair, so he didn't recommend D&G do anything further.

Mr O didn't agree and asked for a final decision from an ombudsman.

I reached a different outcome to our investigator, so I issued a provisional decision to give both parties an opportunity to comment on my initial findings before I reached my final decision.

## What I provisionally decided – and why

In my provisional decision, I said:

*“I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.*

*I’ve reached a different outcome to our investigator. So, I’m issuing a provisional decision to give both parties an opportunity to comment on my initial findings before I reach my final decision.*

*Mr O contacted D&G when his boiler stopped working and an engineer attended. Mr O says the engineer identified an electrical issue with the fan and said parts would be ordered. As Mr O hadn’t heard anything several days later, he contacted D&G and they told him his claim was declined due to sludge being the cause of the issue, which is excluded. Mr O says the engineer didn’t mention sludge at the time of the visit, and instead told him parts would be obtained for repair.*

*I’ve seen the notes from D&G’s engineer who inspected Mr O’s boiler. These say:*

*“CALLED OUT TO NO HEATING OR HOT WATER AND BOILER LEAKING ALSO*

*DRAIN DOWN TO INSPECT AND RECHARGE VESSEL FOUND DIV VALVE LEAKING AND MOTOR SITTING IN WATER SEE PICTURES*

*FILL BOILER BACK UP AND RESET BOILER NOW BLOWING RCD SOON AS DEMAND MADE, POSSIBLE FAN ALSO FAULTY OR PCB WHICH WAS ALREADY CHANGED 12 OCTOBER 2023*

*WATER BLACK PICTURES ATTACHED SO WILL BE REASON FOR LEAK CAUSING DAMAGE PLEASE ADVISED IF COVERED AS FAN AND MOTOR BLOWEN(sic) DUE TO WATER*

*BOILER HAS ALREADY HAD PCB, HARNESS, GAS VALVE 2 MONTHS AGO SO ANY MORE PARTS WOULD PUT THIS OVER BER AS WILL REQUIRE PCB FAN DIV MANIFOLD AND MOTOR”*

*So, there is mention of ‘black water’ (which has also been shown via an image taken), but there isn’t any reference to sludge in their comments. It then appears that when reviewing the claim and complaint, D&G has concluded the black water is sludge. But I’m not persuaded the engineers’ report actually outlines that.*

*In any event, the engineers’ comments aren’t clear that the black water (or sludge) is the cause of the boiler breakdown. It seems to say there was a leak which resulted in parts sitting in water. But it isn’t clear from this how black water (or sludge) caused or led to that. Instead, it seems they diagnosed the breakdown issue was due to electrical issues and electrical parts needed replacing. And this is in line with what Mr O says the engineer told him at the time.*

*It also appears that the engineer may have made a mistake here with the dates of the previous repairs. The internal records show the previous repair was actually in October 2022 rather than October 2023, so 14 rather than two months prior to their visit.*

*After D&G declined Mr O's claim, he arranged for his own engineer to attend. They fixed the boiler by replacing the fan assembly, PCB and wiring harness. They also confirmed:*

*"I was called to this property to repair the boiler as the boiler insurer wouldn't carry out the repair due to alleged sludge in the boiler. Apart from the fact that the faulty components wouldn't be affected by the water quality as they are to do with the ignition side of the system, the water quality appeared acceptable"*

*The engineer was an experienced plumbing and heating engineer, Gas Safe registered, and inspected, diagnosed, and repaired the boiler. They also confirmed there was no sludge present and the parts that needed replacing wouldn't have been affected by sludge in any event.*

*So, having considered all the information provided, I don't think D&G's report is particularly clear in outlining what the cause of the issues was, or that this was actually due to sludge, which would be excluded. By contrast, I find Mr O's engineer's report persuasive, they've said there was no sludge present, and they repaired the boiler using similar parts which D&G's own engineer said were needed before D&G then declined the claim.*

*I'm persuaded by Mr O's own engineers report, and I'm not satisfied D&G has persuasively shown sludge, which is excluded, caused the breakdown. Therefore, unless anything changes as a result of the responses to my provisional decision, I'm minded to conclude D&G misdiagnosed the cause of breakdown, and consequently that they unfairly declined Mr O's claim.*

*Mr O's policy provides £1,000 of cover per claim. Unless anything changes as a result of the responses to my provisional decision, I'll be directing D&G to reimburse Mr O's invoice totalling £997.36. As Mr O has needed to pay the invoice to repair his boiler, due to D&G unfairly declining the claim, and he's been deprived of these funds, I'll also be directing D&G to add 8% simple interest from date of payment of the invoice to date of reimbursement.*

*I recognise that the engineer notes indicate Mr O's boiler may have been beyond economic repair (BER) if the claim had actually been accepted by D&G, although this seems to be due in part to the incorrect date of previous repairs being two months prior, rather than 14, as I've talked about above.*

*Under the policy terms if it was BER, a repair wouldn't be completed and a £750 contribution towards a new boiler would be paid instead. But the fact here is that Mr O paid to repair the boiler because D&G declined his claim. So even though it might have been BER if the claim had been accepted and attracted a lower payment than Mr O paid for repair, it wouldn't be fair to limit the payment to £750 now retrospectively, which is why (unless anything changes) I'll be directing D&G to reimburse the full invoice cost.*

*When Mr O raised his complaint with D&G, they paid £70 compensation. However, I understand that £50 of this was actually reimbursement of Mr O's policy excess when the claim was declined, so the compensation at that time was only £20. But, given that I've provisionally concluded that D&G has unfairly declined Mr O's claim, I don't think this is sufficient.*

*Mr O would always have needed to pay a £50 excess under his policy for a successful claim, and by directing D&G to reimburse his invoice, effectively that is a successful claim under the policy – which an excess would need to be paid. So rather than Mr O needing to give his reimbursed excess back to D&G, I'll take the full £70 as the compensation D&G has paid so far. But, given the incorrect diagnoses, and Mr O needing to then arrange repair of his boiler, I don't think this is sufficient. So, unless anything changes as a result of the responses to my provisional decision, I'll be directing D&G to pay a further £100 compensation, on top of the £70 already paid.*

*I recognise Mr O has asked this service to also direct D&G to do the following:*

- *Introduce a written scheme for each visit which is signed and left with the customer explaining works done and next steps*
- *Improve the communication with their customers*
- *If sludge is found, provided evidence of this*

*However, D&G's wider operating procedures don't fall within my remit, and instead would be something the regulator, The Financial Conduct Authority, would be responsible for. So, this isn't something I'm able to direct D&G to do."*

So, I was minded to uphold the complaint and to direct D&G to:

- Reimburse the repair invoice totalling £997.36
- Add 8% simple interest from date of payment of the invoice to date of reimbursement
- Pay a total of £170 compensation (including the £70 already paid)

### **The responses to my provisional decision**

D&G responded confirming they accepted the provisional decision.

Mr O responded and said that things had been summarised well, and the dates of the previous repair outlined were correct.

Mr O also said he would contact the Financial Conduct Authority regarding the points I outlined were to do with D&G's wider operating procedures and outside the remit of this service, and he also suggested rewording one of those points.

### **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.

And I've thought carefully about the provisional decision I reached. As neither party has provided anything in response to my provisional decision that would lead me to reach a different conclusion, my final decision remains the same as my provisional decision, and for the same reasons.

I note Mr O has suggested the rewording of one of the three points I outlined related to the wider operating procedures of D&G and were outside the remit of this service. However, the three points are those that Mr O outlined in his initial complaint to this service, so I won't be amending the wording as he's suggested. But in any event, those points aren't material to the outcome of the case or my final decision, as I was simply explaining that those points were to do with D&G's wider operating procedures and were the responsibility of the regulator.

### **My final decision**

It's my final decision that I uphold this complaint and direct Domestic & General Insurance Plc to:

- Reimburse the repair invoice totalling £997.36
- Add 8% simple interest\* from date of payment of the invoice to date of reimbursement
- Pay a total of £170 compensation (including the £70 already paid)

\* If Domestic & General Insurance Plc considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr O how much it's taken off. It should also give Mr O a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 2 December 2024.

Callum Milne  
**Ombudsman**