

The complaint

Mr F has complained about the way DAS Legal Expenses Insurance Company Limited handled a claim under the landlord emergency section of his Landlord Insurance policy.

When Mr F sent us his complaint form he raised several other issues, which I am not considering as part of this complaint. One related to the sales literature provided by the insurer who provides the cover under most sections of his policy. And, if Mr F wants us to consider this aspect he will need to raise it with this insurer first.

Mr F also raised issues he had with the service provided by DAS on claims he made at other times. And he will need to raise separate complaints about these with DAS in the first instance or with us if DAS has provided its final response on them.

To be clear, the complaint I am considering in this decision is the way DAS handled Mr F's claim for emergency assistance with the boiler at a property he rents out which started with him calling for assistance on 31 March 2024 due to a problem with it.

Any reference to DAS includes its claim handling agent, who issued the final response letter on this claim on behalf of DAS.

What happened

Mr F called DAS on 31 March 2023 to say the boiler at one of his properties wasn't working. DAS sent out an engineer on 1 April 2024. He said that the diverter valve needed replacing and this part was ordered. Two different engineers came out the next day to fit it, but told DAS they couldn't get the base plate off the boiler due to a rusty screw, so they couldn't fit the part. Mr F complained to DAS about this. Eventually DAS agreed to send another engineer out. He came on 10 April 2024, but all he did was take some pictures of the boiler, including one of the base plate.

Mr F complained to DAS and it issued a final response in which it said that the engineers should have taken pictures of the boiler on the second visit. And the fact they didn't delayed a decision on the state of the boiler. And it offered £205 as compensation for the distress and inconvenience Mr F had experienced because of this.

Mr F remained dissatisfied and asked us to consider his complaint. When he did so Mr F provided evidence from a heating engineer and some photographs which he says shows the engineers DAS sent removed parts from the boiler and distorted the base plate in their attempt to remove it. His engineer said this had resulted in the boiler being beyond economic repair. And Mr F said he had to pay £2,400 to have it replaced with a new boiler. One of our investigators considered Mr F's complaint. She said that she thought it likely that the first engineer who attended did remove some parts from the boiler. But went on to say that she thought the boiler was beyond economic repair anyway because the chassis needed replacing. She further explained that this meant Mr F hadn't lost out because of any failings by DAS's engineers. She also said she was satisfied the compensation offered by DAS for distress and inconvenience was adequate.

Mr F didn't agree with the investigator's view. He thought she was suggesting it was unlikely DAS's engineer removed parts from the boiler. And he queried why the first engineer from DAS only diagnosed one fault with the boiler when his engineer identified two. He also queried why the engineers who attended on 2 April 2024 were unable to remove the screw in the baseplate when both his engineer and the first engineer were able to do so. He further explained that originally his engineer could have fixed the boiler and charged £450 for labour. So, in his opinion, DAS should have been able to arrange the repair of the boiler within the £1,500 policy limit.

I issued a provisional decision on 9 January 2025 in which I set out what I'd provisionally decided and why as follows:

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

Despite what DAS has said, I agree with our investigator that it is more likely than not that the first engineer sent by DAS removed several parts from the boiler for some reason. I say this because I'm persuaded by Mr F's testimony that his tenant found two parts in the bin after the engineer had left. I also find his engineer's report which mentions that other parts were missing persuasive. The most logical explanation for the missing parts is that the first engineer removed the parts in his attempts to fix the boiler. I do not find DAS's argument that the engineer couldn't access the boiler persuasive. This is because I think he would have needed to access it to diagnose the problem with the diverter valve.

While I have noted DAS's opinion, I don't think there is sufficient evidence to show that the whole chassis was damaged and needed replacing. I say this because Mr F's heating engineer has not mentioned a problem with the chassis in his report. And, while I have seen a photograph which shows the base plate on the boiler was rusty, I've not seen any photographs which show the chassis was rusty. And a plumber Mr F showed a picture of the baseplate to said the rust on this in itself was not a major problem. It seems to me that the engineers DAS sent out have for some reason assumed a rusted base plate means the chassis was also rusty and needed replacing, but I am not persuaded this assumption was correct.

However, it seems from what Mr F's heating engineer has said that the main reason he decided the boiler was beyond economic repair was because the base plate had been forced in an attempt to remove the securing screw. I say this because, while he mentioned the missing parts, he said the boiler may have been repairable if the baseplate had not been forced in an attempt to remove the securing screw.

However, I find this engineer's comment that the base plate had been forced and distorted in an attempt to remove the screw securing it a strange one. This is because I can't see how attempting to remove a screw in itself would require someone to force the baseplate. I can see why someone might force the baseplate in an attempt to remove it with the screw in place, but I can't see why they'd do this if all they were attempting to do was remove the screw itself. And in the photograph provided of the base plate after DAS's engineers had attended it doesn't look like there is any distortion to the baseplate as a result of it being forced. And, as Mr F's engineer was clearly able to get the baseplate off to examine the boiler, I can't really see why he couldn't have put it back on in a way that meant it would still do its job, even if the fit wasn't perfect.

In view of what I've said, I am not persuaded that it was necessary Mr F's boiler to be replaced. I think the engineer could probably have replaced the missing parts and the ones that were present that needed replacing. It is not clear exactly what this would have cost. However, my research suggests around £400 for the parts. It is not clear what the labour

cost would have been. But Mr F has said his engineer quoted £450 for labour to replace the diverter valve and heat exchanger. As I'm not an expert I cannot say what the labour to replace the other three parts would have been, but I think it is fair to allow a bit more as it would have taken more time to replace the other three parts. With this in mind, I think it would be fair to allow £600 for labour. This means I think it most likely Mr F's engineer could have repaired the boiler at a cost of around £1,000.

However, I can of course understand why Mr F decided to have the boiler replaced. After all, an engineer he had engaged told him that it was beyond economic repair. But, as I've said, I do not think the evidence overall supports this view. I am nonetheless mindful of the fact that Mr F only needed to get an engineer of his own involved due to failings by DAS's engineers. And I'm also mindful of the fact that DAS's investigation of the issue was flawed because it didn't realise the first engineer must have accessed the boiler.

In the circumstances, I think the fair and reasonable outcome to Mr F's complaint is for DAS to pay the full cost of replacing the boiler, i.e. £2,400 as compensation for the financial loss I consider he incurred due to failings by DAS and its engineers. I do not intend to award interest on this amount or further compensation for distress and inconvenience because I am not entirely convinced Mr F's boiler needed replacing. But I do accept he is not an expert and had to be guided by the engineer he engaged.

My provisional decision

For the reasons set out above, I've provisionally decided to uphold Mr F's complaint against DAS Legal Expenses Insurance Company Limited and require it to pay Mr F £2,400 in compensation.

I gave both parties until 23 January 2025 to provide further comments and evidence in response to my provisional decision.

Mr F has responded to say he accepts my provisional decision.

DAS has responded. It has asked its registered gas engineer to take a look at the evidence. He's said the following:

'Due to the amount of corrosion the engineer could not remove the screw which held the rear section of the diverter valve in place.

Any distortion to the base would be due to the amount of corrosion. The base plate has suffered heavy corrosion in the area of the diverter valve from a leaking component over a prolonged period of time, Thus, weakening the metal base plate as can be seen in the photo above. We only have a view from below the base plate but I suspect that the corrosion on top of the plate was more widespread. I would have thought that the leaking component would have been picked up when a service was carried out.

The front section of the diverter valve had been removed to gain access to the rear section to allow a complete new valve to be installed. If the screw holding the diverter valve had been able to be removed without damaging the base plate further then the valve would have been completely replaced.'

In view of what its gas engineer has said DAS does not agree that its engineers damaged the boiler. And it thinks it is clear from the photographs that the boiler has been leaking for some time. It is adamant its engineer didn't carry out any works to the boiler.

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, it remains my view that it should be upheld.

I do not really understand DAS's assertion that its engineers didn't carry out any works to the boiler. I say this because its registered gas engineer has said the front section of the diverter valve had been removed to gain access to the rear section to allow a complete new valve to be installed. As I understand it, this means one of DAS's engineers must have accessed the boiler and removed this part. And it also seems most likely from the fact Mr F's tenant found a diverter valve motor in the bin after the first engineer had visited that he removed this part as well. I also consider it most likely this engineer removed the other parts mentioned as missing by Mr F's engineer. I say this because I can't really see any other logical reason why they would have been removed.

And it remains my view it was the fact DAS's first engineer removed the abovementioned parts and the attempts by the second engineers it sent out to remove the base plate that led to Mr F having to call out his own engineer. And to this engineer suggesting the boiler was beyond economic repair. Of course, as I said in my provisional decision, I am not convinced the boiler actually was beyond economic repair, but I can understand why Mr F agreed to have it replaced in light of his engineer's comments.

I appreciate DAS's gas engineer has also suggested the baseplate was distorted by corrosion, but it seems to me more likely this would be caused by interference with it than by rust.

So, it remains my view that it is most likely that it was works carried out on the boiler by DAS's engineers that led to Mr F agreeing to have the boiler replaced on the advice of his engineer.

Putting things right

In view of what I've said, I still consider the fair and reasonable outcome to Mr F's complaint is for DAS to reimburse the full cost to him of having the boiler replaced.

My final decision

For the reasons set out above, I uphold Mr F's complaint against DAS Legal Expenses Insurance Company Limited and require it to pay him £2,400 in compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 12 February 2025.

Robert Short
Ombudsman