DRN-5775740

The complaint

Mr S has complained about the service provided by Millenium Insurance Company Limited ('Millenium') in relation to his boiler under his home emergency insurance policy. For the avoidance of doubt, the term 'Millenium' includes its agents and representatives for the purposes of this decision.

What happened

Mr S was unhappy with several aspects of the service provided by Millenium under his home emergency insurance policy. This included dissatisfaction with work carried out to attempt to repair a leak in a boiler component in September 2024. The engineer broke a part, then caused a water leak and left Mr S without heating or hot water. Mr S had to arrange a further callout, and a further engineer advised Mr S that the boiler was beyond economic repair ('BER') and would need to be replaced. Mr S then had to replace his boiler at his own cost.

Mr S complained to Millenium about its service; however, it maintained its stance, whilst paying £40 in compensation for certain service failings. In the circumstances, Mr S referred his complaint to this service. The relevant investigator considered that elements of Mr S's complaint came within the service's jurisdiction regarding visits on 29 September and 2 October 2024. However, he did not uphold the substantive complaint. He concluded that Mr S chose to decline Millenium's offer of a discounted boiler. He felt that the policy terms and conditions were clear that when Mr S chose to have a third-party boiler fitted, then Millenium wouldn't contribute towards it.

Mr S remained unhappy with the outcome of his complaint and the matter was referred to me to make a decision in my role as Ombudsman. I issued my provisional decision earlier this month, and it stated as follows:-

'The key issue for me to determine is whether Millenium acted in a fair and reasonable manner in the way it responded to Mr S's concerns about the service it provided. On a provisional basis, I don't consider that it acted in a fair and reasonable manner in all respects, and I'll explain why.

In reaching this provisional decision, I've considered the parties' submissions as summarised below. I turn firstly to Mr S's submissions. He complained of several service issues. During the annual service in September 2024, Millenium's engineer advised that a part needed replacing, so Mr S paid a £60 'call out' fee to book this. Mr S thought that the same engineer was 'quite pushy' about attending at an inconvenient time. On 27 September 2024, the engineer arrived with another person because he said, 'he wasn't sure how to replace it'. That person snapped off a separate part, resulting in an escape of water onto the floor. As a result, Mr S and his young family were left with no hot water and heating.

The next day, the person replaced the part he'd broken and 'supposedly changed the original part' which Mr S had paid to be replaced. When Mr S tried to turn the heating on, the boiler didn't work and made a loud hum. Mr S contacted the engineer, but Mr S said he wasn't interested. After numerous phone calls to Millenium and being 'passed from pillar to post', it organised an 'emergency call out' and the relevant engineer managed to get the *boiler working. However, the boiler pressure dropped and so another engineer came out and advised that another part be replaced. The boiler then worked for another day, but water started leaking and the pressure dropped again. A further engineer attended but said that the problem would be expensive to fix.*

Millenium then deemed the boiler to be BER and claimed that the damage was due to wear and tear. In summary, Mr S felt that he'd been left with no hot water and heating for over a week through no fault of his own and was then left with a completely broken boiler, where it had been working fully before Millenium's engineer had worked on the boiler. It then tried to sell Mr S a new boiler for £2,350. As Mr S was desperate, he tried to book this as there was a promise of installation within 72 hours. However, he received no follow-up calls, and he had no faith that this would be done within the promised timescale. He said that the £40 compensation offered by Millenium didn't even cover the £60 call-out fee he'd paid.

I now turn to Millenium's response to Mr S's complaint. It provided a summary of each engineer's visit, and the work carried out to the boiler under the policy. It confirmed that in 2023, during the first annual service on the boiler, that the boiler was in full working order. Following renewal of the policy, the second annual service was conducted on 16 September 2024, and that the boiler was found to be 'in good working order and safe to use'. A leak was noted in a component 'due to sludge and scale buildup, and a repair was recommended'. It then noted that, on 27 September 2024, an engineer attended to replace the component, however it said that this wasn't a scheduled visit, and that it hadn't authorised the works and repair costs. It also noted that the engineer encountered issues that left the home without hot water and heating.

Millenium said that it couldn't take responsibility for unauthorised work. It said that it escalated the case due to the needs of a vulnerable family member, and its engineers attended promptly on 29 September 2024, restoring the boiler to working condition. It said that a further visit was arranged for 2 October 2024 to deal with the subsequent pressure loss due to a faulty expansion vessel and pressure relief valve. This again brought the boiler back into service temporarily. It was at this stage that the engineer identified an issue with the main heat exchanger that led to the boiler being deemed BER. It said that the presence of sludge and scale, as well as the boiler's age, meant that; 'a repair was no longer cost-effective.' It considered that £40 adequately addressed the inconvenience caused by its service failures. It recognised however that this didn't reflect the broader financial impact upon Mr S and his family, or the stress caused by the situation. Finally, it noted that Mr S opted to have a new boiler installed by an alternative supplier.

I now turn to the reasons why I'm minded to partially uphold Mr S's complaint, subject to any further submissions made on behalf of the parties. The starting point will be the terms and conditions of the relevant policy, as these form the basis of the insurance contract between the consumer and insurer. I note that the insurance policy covers repairs to gas boilers. BER is defined as; 'When according to the expert judgement of our claims team the cost of repair is more than the value of the boiler.' Under the heading, 'What is covered', the provisions state. 'We will send an engineer to repair any breakdowns related to the below and pay for the callout, parts and all labour involved.' As to what isn't covered, this states; 'We won't be able to repair damage caused by limescale, sludge or other debris if our heating engineer has advised you that you need to carry out repairs or a powerflush.'
In the section headed 'General exclusions', the policy makes it clear that, 'Boilers have a limited life. Depending on the make or model of the boiler this can be between 7-20 years. This means that the value of a boiler falls over time. Sometimes when the cost of the repair for the boiler is likely to be more than the current value of your boiler, we will not be able to carry out the repair and instead declare the boiler beyond economical repair….If it is over 7 years old we will not cover the cost of a new one but we can offer you a 15% discount towards a new one. You can choose to get a new boiler installed by someone else, but we

will not be able to contribute anything towards this.'

Millenium noted from the service carried out in September 2024 that a component was leaking, and the engineer advised that this be replaced. Whilst Millenium considered that the leak was caused due to sludge or scale, and a photograph attached to the service report appears to show evidence of scale, it doesn't appear from the relevant report that the engineer himself had identified the cause of the leak at that time.

The parties disagree about the next event on the 27 September 2025. Millenium say that it has no record on its system of this visit and hadn't issued instructions for its engineer to complete the work. It suggested that there might have been a private arrangement but produced no evidence to support this suggestion. Mr S has, however, provided a detailed account of what occurred. He said that the same engineer who had carried out the service attended on this occasion with another person. It's unclear whether Millenium has checked the position with its agents, or whether a call-out fee of £60 was paid by Mr S. On balance, I'm persuaded that the events as described by Mr S did occur, and this is supported by Millenium's statement that; 'On the 27/09/24 [the agents] supplied a rough quotation that the repair would be approximately £30.00 in materials with no labour amount specified.'

As to whether the work carried out on the 27 and 28 September 2024 was covered by the relevant insurance policy, Millenium has said that the complaint specifically related to the service, and that the visit wasn't an insurance-related claim. It said it was a repair visit carried out following the identification of a fault during the boiler service. On a provisional basis, having considered the policy wording, I'm satisfied that these repair works were covered by the relevant policy, as they constituted repair works, regardless of how the fault was identified. I do therefore consider that the events which occurred on both dates come within the service's jurisdiction.

I'm also persuaded on a provisional basis that, as the engineer had been appointed by Millenium, Mr S would have had no reason to doubt that he was acting under the terms of the insurance policy at that time. It appears that he duly paid the relevant call-out fee of £60. There is no evidence that he was warned that the work was outside the policy which covered boiler repairs. Whether the work in question was in fact caused by sludge or scale, and so excluded by the policy, is a separate issue. Again, I've seen no specific evidence from the relevant engineer's service or other reports, that he considered sludge or scale visible in one of the photographs to be the cause of the leak. There is also no evidence that the engineer advised Mr S that he needed to carry out repairs due to any such sludge or scale.

I note Millenium's attempt to carry out repairs to Mr S's boiler on 29 September 2024 and that as this repair wasn't effective, a further visit had to take place on 2 October 2024, at which point the boiler was declared to be BER, apparently due to a separate issue discovered by the engineer. However, Millenium hasn't produced a copy of the engineer's report from 29 September 2024. Nor has Millenium been able to produce the telephone call made by Mr S on the 28 September 2024 to report the ongoing issues, and this may well have provided some insight as to the key events which occurred on the 27 and 28 of September 2024.

It's notable that the engineer's report of 2 October 2024 is extremely critical of the work carried out by previous engineers, and this report clearly accepts that the events occurred as described by Mr S and that flooding occurred, even though Millenium has argued that Mr S hadn't mentioned flooding on 28 September 2024. The engineer accepted that the previous engineer had 'flooded the house and charged for new automatic air valve which he hasn't swapped it's still the old one in boiler in a bad way.' He strongly questioned 'what last gas man got up to but he's left this boiler in a bad way.'

There’s no clear evidence to show that the fault which ultimately led to the boiler being deemed BER was connected to the poor workmanship which happened on 27 September 2024. The report of 2 October 2024 states that repair work was carried out but that the pressure needle was rising, ‘which indicates hole in main heat exchanger. Recommended new boiler as it’s not a cheap fix’. Millenium subsequently argued that, due to this, and as the boiler was over 15 years old, ‘the cost of repair would have dramatically exceeded the cost of the boiler with deprecation triggering the BER.’. It argued that there was no correlation between the fault and the previous repair and that the issue was due to wear and tear and poor water quality which was shown with the scale and sludge present around the relevant component and that this had damaged the boiler internally. However, Millenium hasn’t produced an expert report to confirm this assertion.

In the circumstances, and in the absence of clear and specific expert evidence, I must determine this issue on the balance of probabilities. There is no doubt that up until 19 September, and probably up to 27 September 2024, the boiler had been operational and in full working order, yet a catalogue of issues then ensued following the intervention of Millenium’s engineers. I consider that the most persuasive evidence is that contained in the report of 2 October 2024. This is categoric that there was indeed a hole in the main heat exchanger, and that the cost of repair would reasonably have led to the boiler being deemed BER. It was likely that due to the age of the boiler, it was reaching the end of its useful life.

In the circumstances, and on a provisional basis, I can’t say that the evidence shows that the fault which was eventually identified on 2 October 2024 was connected to the poor workmanship of Millenium’s previous engineers, nor that Millenium was responsible for the fact that Mr S was forced to buy a new boiler. I’m not therefore minded to require Millenium to refund Mr S for the cost of his new boiler which he ultimately purchased through a third party due to his lack of confidence that Millenium would assist in a timely manner.

On a provisional basis, I therefore consider that Millenium’s engineers were acting under the insurance policy on 27 September 2024, and that one of the engineers caused further damage, and that on the 28 September 2024 he left flooding and a broken system. The engineers also failed to replace the component originally identified as causing problems even though Mr S had paid a call-out charge. This work was strongly criticised by the engineer who eventually made the final assessment of BER. With regard to the poor workmanship provided by Millenium’s engineers in relation to its insured work, I consider that this will have caused significant distress and inconvenience to Mr S and his family, albeit over a relatively short period of time. I note in that the young family included a person which Millenium recognised as having a health condition which would be affected by lack of heating and hot water.

In the circumstances I partially uphold Mr S’s complaint on a provisional basis. The customer experience in this case was poor. The workmanship of its engineers had been lacking in certain respects, as an engineer had broken a part and failed to replace a part in relation to which Mr S had paid a call-out fee. I’ve no reason to doubt that Mr S had to make a number of phone calls to sort out the issue, and that his home was left without heating and hot water due to the actions of Millenium’s engineer. On balance, I also accept that flooding occurred due to the actions of Millenium’s engineer. Finally, I’m persuaded that Mr S paid call-out charge of £60 for inadequate work. I note that Millenium has already paid Mr S compensation of £40 for certain service issues. In conclusion, I’m minded to require Millenium to pay Mr S an additional £460 in compensation for the distress and inconvenience caused.’

In relation to my provisional decision, I provided the parties with an opportunity to provide any further submissions or observations.

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.

Following issue of the provisional decision, Mr S confirmed that he had read it and was happy to accept the decision.

Millenium did not provide any further submissions or observations in response to the provisional decision.

In the circumstances, I’m satisfied that the provisional decision provided a fair and reasonable outcome in relation to Mr S’s complaint and my final decision is as follows.I

My final decision

For the reasons given above, I partially uphold Mr S’s complaint and I require Millenium Insurance Company Limited to pay £460 in compensation in response to his complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr S to accept or reject my decision before 26 September 2025.

Claire Jones
Ombudsman