

complaint

Mrs S has raised a complaint about British Gas Insurance Limited (BG) who she says is responsible for the extent of damage to her ceiling because its engineers failed to identify the source of leaks.

References to BG include its contractors and agents.

I've previously issued a provisional decision in this case upon which I've received comments from Mrs S and BG. I'll address those comments below.

background

Mrs S has a home emergency policy with BG. The factual background to Mrs S's complaint is a little unclear as there are some discrepancies between her account and that of BG. I've seen BG's internal records, and from these, and from what Mrs S says, my understanding is set out below. Following my provisional decision, BG didn't seek to correct my understanding of the factual background.

On 29 August 2018 Mrs S noticed that floor grout in her bathroom was wet. A few days later, on 1 September, she noticed a water leak from the lighting in her kitchen underneath. She called BG and an engineer attended the same day but wasn't able to gain access to the property as Mrs S wasn't there. He left a card to say he'd called. Mrs S says that at this point there was no sign of any damage to her kitchen ceiling.

A BG engineer visited on 3 September and removed two of the tiles which surrounded the bath to investigate the source of the leak. He believed that there was a small leak from a pipe under the bath and that the bath would have to be removed to gain access. As two or three people were needed to remove it, another appointment had to be made.

Mrs S says that on 6 September two BG engineers arrived. Mrs S says they ignored the wet grout, and didn't consider that there was any leak. Mrs S says that at this point, her kitchen ceiling still didn't show any signs of damage. BG's records don't record any visit on this date, and it's not mentioned in its correspondence.

Mrs S says that on 7 September, cracks started to appear in her kitchen ceiling. She phoned BG and another appointment was made. She says that at this stage the damage to the ceiling could be easily rectified. But over the next few days the leak and the cracks became bigger.

On 10 September two engineers arrived. Mrs S says that after checking the bathroom they ignored the wet bathroom grout and blamed the mastic which they thought could be the reason for the leak that was causing the damage to the ceiling below. One job card says that the engineers repaired the waste and advised Mrs S to re-seal. The Customer Checklist that Mrs S signed on the day makes no mention of any repair, and blames the leak on the mastic around the shower and the bath. Mrs S says that one of the engineers reassured her that as her ceiling was in good condition, it would be made good.

On 19 September Mrs S called BG again as there was still a leak that was getting worse. The ceiling had begun to bow, and Mrs S had to take steps to support it and to protect her kitchen. BG says that Mrs S was offered an appointment that evening but she was told that because of the time, it would only be able to isolate the water supply. Mrs S declined this visit as she was now turning the water supply off herself when she didn't need it.

Another BG engineer arrived on 20 September. He cut a hole in the kitchen ceiling and was able to see that there was a leak from a loose elbow feeding the hot tap above. He repaired this and tested it. Mrs S says she was assured that someone would come to repair the damage to her kitchen ceiling.

But as there was still wet grout in the bathroom and a damp smell coming from the ceiling, Mrs S says she called in a plumber. He found that the toilet pipe and collar were wet. He rectified the leak in this area, and Mrs S says that dealt with the wet grout, and that after this repair there was no further leaking. Elsewhere Mrs S says that this leak was found by BG, but BG's records make no reference to having undertaken any such repair.

So it appears that there were actually two leaks, one from the elbow under the bath feeding the hot tap, and the other around the toilet pipe.

On 2 October Mrs S called BG again as she was still waiting for someone to call her about the repair/making good of her kitchen ceiling. On 4 October a plasterer came to repair the damage but he was unable to carry out the repair as the ceiling had bowed and hardened. In his report he wrote "ceiling badly damaged from delaying".

Mrs S has provided photos of the damage to her kitchen ceiling, taken over a number of weeks. These show the worsening condition of her kitchen ceiling during the time it took BG to locate and fix the leaks. Mrs S has said there were times she had to stop using the bathroom, and resorted to turning off her water supply except when she needed to draw water whilst she waited for the leaks to be repaired. She had also been advised not to use the lighting in the kitchen.

Mrs S says that BG is responsible for the damage to her kitchen ceiling because although it didn't cause the leaks and they were present prior to BG's initial visit, BG's delay in identifying and fixing the leaks contributed to the extent of the damage. Had the leaks been fixed earlier, the damage to her ceiling would've been minimal and easily repaired.

BG says that as the leak was "an uncontrollable water leak", which indicated that damage had already been caused when it was asked to attend. It rejected any liability for the damage as the leak had been coming through her ceiling before its engineers attended and so wasn't due to its engineers' workmanship. It deemed it to be consequential damage and as such told Mrs S she should contact her household insurers.

Mrs S explained that the description of the leak as "an uncontrollable water leak" wasn't accurate and that was just how her explanation had been interpreted by the member of BG staff who took her initial call.

As she was unhappy with BG's handling of her leak problem and its response to her complaint, she brought her complaint to this service.

Our investigator's view was that if the leak had been repaired sooner it's likely Mrs S's ceiling could've been repaired easily. BG had apparently agreed to repair Mrs S's ceiling under her policy, and it was unfair that it now wouldn't repair it because the cost was more than it expected. She recommended that BG repair Mrs S's ceiling and pay her £100 compensation for her trouble and upset.

As BG didn't agree with our investigator's view, Mrs S's complaint was referred to me to make a final decision. I initially issued a provisional decision.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I'm going to uphold Mrs S's complaint and to make a different award to that suggested by our investigator.

It appears that Mrs S contacted BG about a leak on 1 September. BG's first visit was on 3 September as she hadn't been at home to give access on 1 September. So 3 September was BG's first opportunity to find the source of the leak. It removed some tiling but wasn't able to find the source of the leak on that occasion.

Its next visit wasn't until 10 September, when Mrs S was advised that she should re-seal around her bath and shower. The condition of Mrs S's ceiling continued to get worse.

She reported this to BG on 13 September but declined a visit that evening as it was only going to result in her water being isolated, and she was doing this herself.

BG didn't attend again until 20 September. The engineer on that date made access through the kitchen ceiling and found the source of a leak, which he fixed.

But as there were still signs of wet grout on the bathroom tiles, Mrs S called in another plumber- and it's not clear when - who found another leak source that BG hadn't previously noticed, and fixed it. Mrs S says it was fixed by BG, but BG's records don't show any visits after 20 September.

So it appears that there were two leak sources. It took BG between 3 September and 20 September to identify the source of at least one of the leaks. It may not have found the source of the second leak. During this time, the condition of Mrs S's kitchen ceiling deteriorated from a leak through the light fitting to the ceiling cracking and bowing to the extent that it needed to be propped up. BG apparently offered to make it good, but when it appeared to be a bigger job than anticipated, it declined responsibility and referred Mrs S to her home insurance policy.

I've referred to Mrs S's policy document which refers to BG's liability for damage. It states:

"7.26 Unless we are responsible for it, we will not include loss or damage to property (including any cleaning needed) or any other type of loss caused by the boiler or system to which your EnergyExtra™ Product relates breaking down or being accidentally damaged by you or leaking (for example, damage to furniture caused by water leaks). If access has to be made to your boiler or system, we will fill in any holes and leave the surface level but we will not replace the original surface or construction. Any redecoration or repair of damage that may be needed following our work is your responsibility unless we have been negligent." (my emphasis underlined)

In my view, there was negligence here on the part of BG, so it can't rely on the above disclaimer.

BG recorded Mrs S's leak as an "uncontrollable water leak" which one might reasonably expect would require a degree of urgency in its repair. Instead, it appears that BG didn't approach this job with any degree of urgency, and possibly only identified one leak source.

In my opinion BG was responsible for the level of damage that occurred to Mrs S's kitchen ceiling between 3 September and 20 September 2018. During this time BG, on the basis of its own records, visited Mrs S on 3, 10, 13 and 20 September. Having failed to identify the source of either leak at its first visit on 3 September, BG didn't visit again until 10 September.

So it should've been aware that as it hadn't fixed any leak, damage would continue. And then when Mrs S reported on 13 September that the damage to her ceiling was getting worse, and that she was turning off the water supply herself (which was what BG offered to do late on 13 September), no one called again until 20 September.

I've taken into account what BG has said in response to my provisional decision. It maintains that Mrs S had several unrelated leaks within her bathroom for which it isn't liable. It disputes that it caused a leak or delayed in fixing one.

But these leaks were causing damage. Had BG attended more promptly and therefore identified the source of both leaks earlier, the damage caused might've been very significantly reduced. I don't think it's reasonable for BG to recommend that Mrs S make a claim on her home insurance policy as this might require her to pay an excess and might result in her premiums increasing in future years.

In these circumstances I think it would be fair and reasonable for BG either to undertake the repair of Mrs S's kitchen ceiling, or alternatively to reimburse her promptly for the cost of employing a third party of her choosing to undertake the necessary work.

Mrs S has not yet had her ceiling repaired pending the outcome of this complaint. Following my provisional decision she explained that she hadn't done so as she didn't want to do anything which might be regarded by BG as an admission on her part that she was responsible for the repair.

I think it would also be reasonable for BG to pay Mrs S compensation for what I expect would be considerable trouble and upset in having to live with a propped up ceiling since September 2018. But as it could reasonably be said that Mrs S could've made arrangements some time ago for it to be repaired, thereby reducing the inconvenience, I'm proposing to limit this compensation to £350. I don't think it would be fair to require BG to pay more than this simply because it denied liability.

my final decision

For the reason I've given above, I'm upholding Mrs S's complaint.

I require British Gas Insurance Limited, at its option, (such option to be exercised within 14 days,) either to undertake the repair of Mrs S's kitchen ceiling within a further 28 days or alternatively to reimburse Mrs S promptly for the cost of employing a third party of her choosing to undertake the necessary work.

I also require British Gas Insurance Limited to pay Mrs S compensation of £350. It must pay the compensation within 28 days of the date on which we tell it Mrs S accepts my final decision. If it pays later than this it must also pay interest on the compensation from the date of my final decision to the date of payment at 8% a year simple.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 17 April 2020

Nige Bremner
ombudsman