

## **complaint**

Mrs K complains that British Gas Insurance Limited is responsible for poor service in connection with a home emergency insurance policy.

## **background**

Mrs K's company owned a redundant church building that she planned to redevelop into flats. From 2014 to 2018 she had British Gas HomeCare to cover its central heating, plumbing and drainage.

Where I refer to British Gas I refer to the insurance company of that name and I include its associated plumbing and drainage company, engineers and others for whose actions I hold that insurance company responsible.

British Gas made some visits in 2014, 2015 and 2016. From November 2016 the policy also included an annual boiler service and cover for electrics. Mrs K agreed to pay the yearly premium by monthly instalments.

In April 2017, Mrs K called for help with an electrical issue. British Gas said it would cancel the policy because the building was commercial property. A couple of days later Mrs K set up a new policy. In about January 2018, Mrs K called for help with plumbing and drainage. British Gas sent an engineer out to unblock a sink.

Mrs K complained that – on other occasions - British Gas had declined to help. In its final response, British Gas said it would refund £252.02 for the payments she'd made from 2014 until 2017 for the plumbing and drains cover.

### *our investigator's opinion*

Our investigator recommended that the complaint should be upheld. She thought that - cover effectively not having been in place for from 2014 to 2017 - British Gas should refund all of the premiums Mrs K had paid. But the investigator thought the British Gas policy terms entitled it – on a policy cancellation - to recover £70.00 per piece of work completed. She recommended that British Gas should:

1. refund to Mrs K all the premiums she had paid to date less the cost of any jobs that had been completed as per the terms and conditions; and
2. add 8% simple interest to this; and
3. pay £100.00 compensation for the inconvenience Mrs K had experienced to date.

### *my provisional decision*

After considering all the evidence, I issued a provisional decision on this complaint to Mrs K and to British Gas on 24 September 2019. I summarise my findings:

Mrs K only experienced difficulty in the policy period from October 2016 and in the policy year from April 2017. So I was minded to find it fair and reasonable to direct British Gas to refund to Mrs K the instalments she paid between October 2016 and April 2018.

As British Gas became inconsistent about whether it would do repairs, I wasn't minded to find it fair to allow a deduction for unblocking the sink in early 2018. I did give British Gas credit for the refund of £252.02.

As Mrs K should've had the larger refund some time ago, I was minded to direct interest at our usual rate.

I was minded to find that – by inconsistency in applying its policy terms from April 2017 – British Gas caused some inconvenience and distress to Mrs K. In particular she suffered wasted time in waiting for engineers and on the telephone. I was minded to agree with the investigator that £100.00 is fair and reasonable compensation for this.

Subject to any further information from Mrs K or from British Gas, my provisional decision was that I was minded to uphold this complaint in part. I intended to direct British Gas Insurance Limited to pay Mrs K:

1. a refund (insofar as it hasn't already paid a refund) of each instalment she paid for HomeCare (including central heating and plumbing and drainage and electrical cover) between 7 October 2016 and 11 April 2018; and
2. simple interest at a yearly rate of 8% on each such amount it refunds from the date she paid it to the date of the refund. If British Gas considers that it's required by HM Revenue & Customs to withhold income tax from that interest, it must tell Mrs K how much it's taken off. It should also give her a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate; and
3. £100.00 for distress and inconvenience.

Mrs K disagrees with the provisional decision in part. She says, in summary, that:

- British Gas knew from the start that the property was a redundant Church and they weren't going to provide the service under the contract.
- The only service that she ever received was unblocking the kitchen sink or servicing the boiler. Any other job was refused.
- The refund of £252.02 was mainly for issues before October 2016. Therefore it shouldn't be credited to British Gas.
- The provisional decision encourages British Gas to continue its bad practice.
- £100.00 isn't enough compensation for numerous lengthy phone calls and waiting for a repairer who either didn't turn up or refused to do the repair.

British Gas disagreed with the provisional decision. It says, in summary, that:

- It no longer has call recordings or evidence from when Mrs K took out the policy in October 2014.
- It completed both repairs and service visits to the appliances, therefore Mrs K clearly had the benefit of the policy during the time she was on cover.
- It dealt with the complaint quickly.

### **my findings**

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

British Gas hasn't provided any call recordings.

British Gas hasn't shown us any evidence that, when Mrs K took out the policy in October 2014, it asked any question to which she provided an incorrect answer.

British Gas hasn't provided the version of its policy terms in use in 2014. But I'm familiar with later versions of its policy terms. And I accept that they cover a property that is a home to the policyholder or a tenant. British Gas could've made that clearer. But in the context of a product called "HomeCare" I'm satisfied that it's clear enough.

The British Gas records show that it visited the redundant church building in October 2014. It must've realised that it wasn't anyone's home. So I think it should've told Mrs K that the policy wasn't one from which she could benefit. If it had done so then I don't think she would've continued paying the instalments. Therefore I would usually find it fair to direct British Gas to refund all her payments.

In Mrs K's case however, British Gas worked on the boiler anyway. In October 2015 British Gas did an annual boiler service. From its records, I find that in January 2016 it replaced a thermocouple. I think Mrs K has forgotten about that. And in September 2016 British Gas did another annual service.

I think Mrs K renewed the policy from October 2016. I think the yearly premium was going to be about £288.97. And I think she must've paid an instalment of £24.20 on about 28 October 2016.

From early November 2016 she added electrical cover. The letter said the yearly premium was £328.03 and she had to pay an instalment of £27.83 on 28 November followed by ten instalments of £27.60. Those instalments total £303.83. That's why I think she'd paid £24.20 on about 28 October 2016.

I think that all the previous visits gave Mrs K a reasonable expectation that British Gas wouldn't decline help on the grounds that the building wasn't a home. I find that British Gas met that expectation until April 2017.

On about 5 April 2017 British Gas declined to help with an electrical issue. It said it was cancelling the policy. A file note indicates that British Gas intended to refund £141.31. I think that was for all the instalments paid in that policy year to that date. But I don't think it made such a refund.

In the absence of call recordings, I find it likely that British Gas gave Mrs K confusing information about what it could cover and what it couldn't. And Mrs K took out a new policy. British Gas didn't cancel it.

Matters came to a head in early 2018 when Mrs K called for help with plumbing and drainage. British Gas unblocked a sink in February. But on other occasions it said it wouldn't do a plumbing repair because the building wasn't a home. Mrs K complained in March 2018.

I think her policy renewed on about 7 April 2018.

In its final response letter on 9 April 2018, British Gas said it was refunding payments for the policy years from October 2014, 2015 and 2016. But it quoted figures of £74.20, £90.72 and £87.10 and said it was sending a cheque for the total of £252.02. That was only for the plumbing and drainage cover.

British Gas didn't explain why it was treating the plumbing and drainage cover differently to the other sections of cover such as central heating or electrics. I think all the sections of cover were affected by the policy terms relating to a home.

Mrs K cancelled the policy on about 11 April 2018.

I've thought about directing a refund of all instalments of premium – subject to a deduction for the work carried out.

But Mrs K didn't experience any difficulty in accessing services in the policy years from October 2014 and 2015. I find that British Gas met her expectations for those years.

She only experienced difficulty in the policy period from October 2016 and in the policy year from April 2017. So – instead of the British Gas refund of £252.02 for plumbing and drainage for the policy years 2014, 2015 and 2016 - I find it fair and reasonable to direct British Gas to refund to Mrs K the instalments she paid for all aspects of cover between October 2016 and April 2018.

I'm increasing the refund for the period from October 2016. I find it fair and reasonable to give British Gas credit for the refund of £252.02.

As British Gas became inconsistent about whether it would do repairs, I don't find it fair to allow a deduction for unblocking the sink in early 2018.

As Mrs K should've had the larger refund some time ago, I will direct interest at our usual rate.

I find that – by inconsistency in applying its policy terms from April 2017 – British Gas caused some inconvenience and distress to Mrs K. In particular she suffered wasted time in waiting for engineers and on the telephone. I agree with the investigator that £100.00 is fair and reasonable compensation for this.

### **my final decision**

For the reasons I've explained, my final decision is that I uphold this complaint in part. I direct British Gas Insurance Limited to pay Mrs K:

1. a refund (instead of its refund of £252.02) of each instalment she paid for HomeCare (including central heating and plumbing and drainage and electrical cover) between 7 October 2016 and 11 April 2018; and
2. simple interest at a yearly rate of 8% on each such amount it refunds from the date she paid it to the date of the refund. If British Gas considers that it's required by HM Revenue & Customs to withhold income tax from that interest, it must tell Mrs K how much it's taken off. It should also give her a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate; and
3. £100.00 for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs K to accept or reject my decision before 22 November 2019.

Christopher Gilbert  
**ombudsman**