

complaint

Mrs C's complaint is about the service provided by Aviva Insurance Limited in relation to her home emergency insurance policy.

background

Mrs C held a policy with Aviva to cover a property occupied by a tenant. In September 2016, Mrs C's tenant had reported that the boiler was leaking when either the heating or hot water was on. Aviva sent an engineer out to investigate the problem but he could not find any leak. Aviva says he topped up the pressure and asked the tenant to report any other issues.

I understand there was no further contact until early March 2017, when the annual service was arranged to take place on 8 March 2017. However, the day after booking this service, Mrs C cancelled the policy – *i.e.* on 4 March 2017.

Mrs C took out a similar policy with another provider. When that provider attended on 21 March 2017, to carry out an initial inspection it said there were a number of issues with the boiler, including a leak from the heat exchanger. The other provider said the boiler had to be condemned and shut it off; it could not take on the boiler, as it did not meet regulations. Mrs C therefore got her own engineer to attend. He said that the cylinder had been leaking for some time; the pump wasn't working and the heat exchanger was corroded and leaking.

Mrs C says that Aviva failed to service the boiler and failed to diagnose a fault and carry out a repair proper repair in September 2016. She wants Aviva to reimburse her the cost of a new boiler, which I understand was replaced in early May 2017 and cost her almost £2,000. Mrs C has also made the following points:

- If Aviva had attended when the annual service was due – *i.e.* February 2017, it would have been able to follow up on the issues identified in September 2016
- She took the policy with Aviva to prevent such situations and to protect her boiler
- Aviva didn't tell her about the attendance in September 2016 at the time and left her vulnerable tenant to make the cylinder and boiler safe.
- It was the letting agent that reported the leak and so Aviva should have reported back to the agent or her after the attendance.
- Her tenant thought the boiler had been fixed and didn't know she needed to do anything else. Aviva knew she was vulnerable. If Mrs C had known about the issues, she would have been able to resolve them.
- When she contacted Aviva about this she was told that there had been two previous attendances – one in August 2016 with regard to the cylinder and the other September 2016 for the leaking boiler.
- She paid for Aviva to maintain her boiler. It was in perfect working order when her contract with Aviva started and it failed to fulfil its obligations.
- She's not received a copy of the job sheet for the attendance in September 2016, despite requests. It has provided two other reports, which she didn't ask for so why can't it provide these?
- In previous years Aviva's agents used to contact her after any claim, so do her other insurers.

Aviva says now that in fact there was no attendance took place in August 2016 and this was told to Mrs C in error. Aviva confirmed it did attend in September 2016. No leak was found in September 2016 and no other problems were reported to it between then and around

seven months later, when Mrs C replaced the boiler. As the annual service wasn't carried out, Aviva provided a refund for the cost of the service.

One of our adjudicators looked into the case. Initially she didn't think it should be upheld but she then decided that Aviva should make a contribution of £200 towards the cost of the new boiler. This is because the damage to the boiler seems to have occurred during the period of cover with Aviva and the policy provides that if the boiler is deemed to be beyond economic repair ("ber") and is more than seven years old, it will make a contribution of £200 towards a replacement. Mrs C told the adjudicator her boiler was more than seven years old in 2016.

Aviva did not accept the adjudicator's assessment. It says:

- There was no breakdown of the boiler and so the ber contribution would not have been offered.
- Even if it had broken down, the cost of the heat exchanger would not have exceeded its value and therefore the boiler would not have been ber.
- Corrosion is not covered under the policy which excludes: "sludge/scale/rust within the system or damage caused by any other chemical composition of the water".
- The engineer's reports are received electronically and so while it can provide a summary of what he said, it can't provide a copy of a report.

Mrs C also does not agree. She says that the adjudicator has still not addressed the main aspects of her complaint; and the £200 ber contribution would go nowhere to making up for the annual premium she paid Aviva to maintain and look after her boiler and having to spend almost £2,000 for a new one.

As the adjudicator has not been able to resolve the matter, it has been passed to me.

my findings

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

Mrs C says that she was paying Aviva to maintain her boiler but that is not strictly correct. Mrs C held an insurance policy with Aviva, which included the provision that it would carry out an annual service. A service is intended to make sure the boiler is operating safely and efficiently. So while the service should normally include some cleaning of parts and other checks that are intended to increase the life span of a boiler, it does not guarantee that nothing will go wrong with it.

When the engineer attended in September 2016, he apparently carried out checks to identify a leak from the boiler however, no leak was identified. I share Mrs C's confusion as to why a report can't be provided for this attendance, when Aviva has provided two other reports (including one for two days after this apparently relating to a leak from the kitchen sink). However, having said that, I have no other reason to doubt the summary it has provided of that attendance. And there's no evidence that he did anything wrong at this visit - sometimes faults do happen intermittently and are hard to replicate.

I am, however, also satisfied that there was a leak, otherwise Aviva would not have been called out. So even though Aviva may not have been able to replicate the leak at that time, there was one.

Mrs C is adamant that Aviva should have contacted her and/or her agent after that visit, rather than leave the burden on her tenant to report any other issues. She did not know about the leak or the call out at that time and so she could not have checked with Aviva, as it has suggested she should have. I understand that Mrs C was not in a position to do anything about the leak at that time, but in the absence of any clear instruction or agreement between her and Aviva as to how it would communicate with her about any call outs, I can't say that it should have contacted her directly. Although the tenant is described as 'vulnerable' I've seen no evidence that this means she was unable to deal with the attendance and more importantly no evidence that Mrs C gave instructions to Aviva to only deal with her or her letting agent. So, even though it was the letting agent that reported the leak, I don't consider Aviva did anything wrong in not telling her the outcome of the September 2016 appointment.

Aviva did apparently write twice to Mrs C's address to ask her to arrange the annual service. I don't therefore consider that it was at fault for this not going ahead before the policy ended.

But I do consider that it is more likely than not, that the damage to the boiler happened while Aviva was on cover. There was a leak in September 2016, and the new insurer said the problems it identified in March 2017 had been going on for some time. So while Mrs C didn't know this until after she cancelled the policy, the damage is shown as likely to have happened before then and while Aviva was on cover. I therefore consider it fair and reasonable for it to deal with the matter.

Aviva says there'd have been no valid claim under the policy, even if it had been reported before the end of the policy: it says the boiler would not have been ber as it could have replaced the heat exchanger; and/or that there was no breakdown in any event; and that the heat exchanger was damaged by corrosion and this would therefore have been excluded from cover anyway.

However, there was clearly an ongoing leak, which for whatever reason wasn't found when Aviva attended in September 2016, and this would be covered, even if the boiler was still working.

The policy specifically says that it covers replacement of heat exchangers. While it also excludes claims arising from sludge/scale or rust, Aviva has not established that rust or corrosion caused the leak, as opposed to the leak causing the corrosion. I also note that Mrs C says she was told the pump was not working and a new pressure release valve was also needed. So the leak could have been as a result of one of these issues. Therefore even if it then caused rust because it had gone on for a while, there's no evidence the initial leak was due to rust/sludge/scale.

I therefore consider that Aviva would have been responsible for replacing the heat exchanger, or at least some repair, or making the ber payment, if it had been noticed during the period of cover, or if it had found the leak in September 2016. I don't have evidence of what it would have costs Aviva to replace the heat exchanger but from experience this would not be very different from the ber contribution provided for under the policy anyway.

Overall therefore I consider it fair and reasonable that Aviva pay the ber contribution of £200 to Mrs C. I don't consider that it is responsible for the cost of a replacement boiler, as that would never have been covered under the policy. And there's no convincing evidence that the new boiler was needed only due to something that Aviva did wrong. Even if it should have spotted and sorted out the leak in September 2016 (which I'm not convinced it should)

there's no convincing evidence that this would have prevented the need for the boiler to be replaced.

my final decision

I uphold this complaint against Aviva Insurance Limited and require it to pay Mrs C the sum of £200.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 19 April 2018.

Harriet McCarthy
ombudsman