

complaint

Mr G has complained that Inter Partner Assistance SA refused to provide cover for a claim he made under his home emergency policy.

background

I issued a provisional decision on this complaint in June this year. An extract from that decision follows:

“Mr G’s boiler and radiator were leaking so he reported this to IPA. An engineer was sent by IPA to investigate. He replaced some of the seals which seemed to stop the leak. Three days later Mr G said the leak started again. When the engineer went there he said there was magnetite scaling (which is evidence of corrosion) in the boiler so he couldn’t seal it properly. So he isolated the boiler to stop the leak. This meant Mr G had no heating or hot water.

IPA said because the reason for the leak was wear and tear, which was excluded by the policy, it wouldn’t cover the claim.

IPA sent another engineer a few days later to offer a second opinion. He said that dirt had gone inside the boiler because the filter, which was installed by an independent plumber years before, was fitted the wrong way round. IPA confirmed it wouldn’t cover the claim because the cause of the leak was wear and tear.

Mr G called a private engineer who replaced the boiler a few weeks later. He said his engineer told him some parts of the boiler were missing (the “O” ring) and parts were sealed with tape instead of normal seals. Those were the causes of the leak and not sludge or dirt.

Mr G complained because he was left without heating and hot water for two weeks. He said he’s had his boiler serviced every year as part of his home emergency policy. The engineers who serviced the boiler for the previous four years never mentioned sludge and should’ve realised the filter had been fitted the wrong way round. And he’s also unhappy IPA didn’t return his calls and caused delays.

Mr G wants to claim for part of the costs of replacing his boiler because he says his previous boiler should’ve lasted another seven years. He also wants IPA to pay for alternative accommodation, as covered by the policy, and also for the stress of having to make the claim.

IPA said checking the filter wasn’t part of the yearly service. And it told Mr G his claim wasn’t covered as soon as it was aware the cause of the leak was wear and tear. Also the yearly service was done by a separate company so he’d have to raise his concerns about the service with them.

Our adjudicator felt that IPA had acted reasonably in this case because the policy doesn’t cover damage due to wear and tear.

my provisional findings

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

Mr G has home emergency cover through his home insurance policy. He's also opted for the annual boiler service which is offered under the policy. The annual service was done by a plumbing company ("the contractor").

Mr G's policy doesn't cover the cost of replacement parts due to wear and tear. I don't think this term is unfair or unusual and is common in similar policies.

Mr G said his own plumber told him the reason for the leak was that the boiler was sealed with tape and not proper seals and also that an "O" ring was missing. And he hadn't found an unusual amount of sludge. Mr G said he has kept his old boiler for inspection if needed. Though I don't doubt what Mr G says he was told by his plumber, I haven't seen any evidence from the plumber himself. So the only expert evidence I have about the cause of the leak, is what's been provided to me by IPA.

The evidence IPA has provided came from its contractor who inspected the boiler. This evidence suggests the boiler was leaking because of scaling on the seal connected to the heat exchanger and sludge in the system. IPA considers this to be evidence of wear and tear and I think this is reasonable because, on balance, I think the scaling and the sludge would have been building up over time to get to the stage where they'd been causing a leak. So I think IPA is being reasonable in not offering cover.

Mr G is unhappy IPA didn't offer him £250 per day for accommodation, which is something it can offer under the policy. But as I don't think his claim was covered IPA didn't have to offer anything. I note IPA offered Mr G £50 for alternative accommodation but he turned this down. Bearing in mind the claim isn't covered, I think the offer was reasonable.

Mr G is unhappy IPA's contractor didn't previously say the filter had been fitted the wrong way round. And this meant it wasn't doing its job of stopping sludge and scaling from going into the boiler. IPA said, checking the filter wasn't part of the yearly service. The filter was fitted by an independent plumber on the advice of Mr G's energy provider. So it was something that was added to the heating system as an extra part and it's not part of the original boiler. Also from what I understand, it wasn't fitted inside the boiler but it was added onto the pipework. Based on this, I don't think servicing the filter was part of the boiler service. If Mr G is unhappy with the way the filter was fitted, he should consider complaining to the plumber who installed it.

Mr G has provided a letter from the manufacturer of the filter. The letter says that the filter is easily accessible and should be cleaned regularly, for example, when the boiler is being serviced. The letter also says the filter cannot cause corrosion. From what I've seen, IPA didn't say that the filter caused corrosion. But it said it didn't prevent the sludge and scaling from going inside the boiler because it was fitted the wrong way round. And for reasons I've given above, I don't think in this case it was necessary for IPA to check the filter when it was doing the boiler service.

Mr G has complained that IPA delayed dealing with his claim. From what I've seen, IPA sent one of its contractors to check the leak the day after it was reported by Mr G. And the same happened the second time he called to report the leak. Mr G said after the contractor isolated the boiler during the second visit, leaving him with no heating or hot water, he was told IPA would contact him but it didn't. From what I've seen, Mr G had called IPA on the day of the second visit and the following day and had spoken to someone. But I accept it appears he had to call a couple of times before he managed to speak to one of the managers.

Though IPA confirmed to Mr G on the day the boiler was isolated that his claim wouldn't be covered, it arranged for an engineer to attend two days later to provide a second opinion. In the meantime it told Mr G he could get an independent quote because if the diagnosis stayed the same, he would have to do that in any event. When the contractor attended two days later he said there was sludge in the system but also the filter had been fitted the wrong way round. IPA confirmed again that there was no cover. So, overall, I don't think IPA caused any delays and I think it acted reasonably by getting a second opinion.

I appreciate Mr G will be disappointed by my decision but unfortunately I can only look at what IPA did as the insurer. In this case, IPA was right to act on the advice it got from its contractor's engineers as they are the experts. And in the absence of any conflicting expert opinion, it appears the cause of the leak is something that wasn't covered under Mr G's policy.

my provisional decision

For the reasons above, I'm not considering upholding Mr G's complaint against Inter Partner Assistance SA."

developments

Mr G has responded to my provisional decision. He said he contacted the manufacturers of the boiler who said the filter wouldn't cause the boiler to fail but would make it more effective. He also said he was never offered £50 for accommodation. Mr G also provided an email he sent to IPA's contractor. Mr G asked the contractor whether the filter was cleaned or checked as part of its annual boiler service and whether this is a standard part of the service. The contractor confirmed that it was.

Our adjudicator sent copies of this correspondence to IPA who said it seemed to be paperwork from a private service Mr G had with the contractor and it wasn't work paid for by it.

Mr G said if the service had been carried out properly, over the four years he held this policy with IPA, the build-up of sludge and the fact that the filter had been fitted incorrectly would've been identified and rectified earlier. He said his policy provides up to £1000 for repairs. IPA didn't offer anything for repairs. He also said he paid an extra £100 per year for the boiler service not just £39 as advertised on the contractor's website.

I've contacted IPA and asked if it had any further comments to make about this new evidence but it hasn't responded.

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 emailed IPA with Mr G's arguments and said I was considering upholding Mr G's complaint on the basis of this new information. I gave IPA a deadline to provide further comments but it hasn't provided any. This deadline has now expired, so I feel I can proceed to a final decision.

From what I've seen Mr G hadn't previously complained about the premium he was paying each year so this isn't something I can deal with in this decision. If he does wish to complain about the pricing of the policy he may raise a new complaint directly with IPA.

Mr G's policy provides, among other things, cover for the complete, partial or intermittent breakdown of his heating system. And the definition of "heating system" includes the heat exchanger. The policy also says IPA will pay up to £250 including VAT for accommodation costs in the event of an emergency which means the consumer can't stay at their home. The policy doesn't cover the cost of replacement parts due to natural wear and tear or any damage caused by faulty or negligent workmanship.

As I said in my provisional decision, I think the company who carried out the annual service was IPA's agent. So I think it's fair to say IPA is responsible for the agent's actions.

My provisional decision was based on IPA's evidence that the annual service provided by its contractor doesn't include cleaning and checking the filter. But Mr G has now provided evidence from the contractor itself who said the annual service does include cleaning the filter. IPA said the documents Mr G sent related to a private service he arranged directly with the contractor. But from what I've seen this was a general enquiry about what a standard service involves. And the contractor confirmed the service covers cleaning out the filter.

Mr G said he's had this service done by IPA's contractor for four consecutive years. And the filter was fitted a few months before the first service was done. On balance, I think had the contractor carried out the service properly, it would've identified that the filter had been fitted the wrong way round from the time it first serviced the boiler and it would've addressed this with Mr G. Mr G went to the trouble and expense of getting work done to make his heating system more efficient. So I think he would have got the original workman to correct the error. And if the filter had been corrected, it would've stopped or at least slowed down the build-up of sludge, because that's what it's meant to do. On balance, I don't think the boiler would've broken down when it did, and I think it would've continued working for a while longer as it was only eight years old at the time. Mr G said it should've lasted at least another seven years but there's no way of knowing that now.

From what I've seen, IPA's engineer said the heat exchanger was covered in sludge and had to be replaced. Mr G was asked get a quote for a new heat exchanger. But he chose to replace the boiler instead. I don't think IPA should pay for the cost of a new boiler because it looks like all that needed replacing was the heat exchanger. So I think IPA should pay Mr G for what it would've cost to replace the heat exchanger.

IPA may argue it doesn't have to pay the claim because the filter was fitted incorrectly by an independent plumber. Its policy doesn't cover damage caused by faulty workmanship. And it doesn't cover damage caused by sludge. As I said above, I think had IPA's contractor conducted the boiler service properly the boiler would've probably gone on working a while longer. And IPA would've probably identified that the filter was fitted incorrectly at the first service which was only a few months after the filter was fitted. At that stage I think IPA would've asked Mr G to have it fitted properly and this would've slowed down the amount of sludge that built up over the following four years. So I think it's fair and reasonable not to allow IPA to rely on these two exclusions.

Mr G is claiming £200 compensation per day for each of the 14 days he was left without hot water and heating. He is also claiming for around half of the cost of the new boiler (around £700) because he believes his boiler was supposed to last another seven years.

As far as I know Mr G continued to live in the property over the 14 days he was without heating and hot water so I don't think IPA should pay the £250 for alternative accommodation. But because I think that it's responsible, through its contractor, for the boiler failing which resulted in Mr G making a claim, replacing his boiler and complaining to us, it should pay him compensation for the trouble and upset he suffered. And taking into account the claim was made when the weather would've been cold and Mr G was without heating or hot water for so long I think it should pay him £350.

Mr G said he wasn't offered £50 for new heaters or alternative accommodation while his heating was down. This is information I found from a telephone note on 7 November between Mr G and IPA. In light of the award I have made above I don't think this is something IPA has to now offer Mr G.

my final decision

For the reasons above, I'm partly upholding Mr G's complaint against Inter Partner Assistance SA and direct it to pay Mr G the following:

- The amount it would've cost to buy and fit a new heat exchanger for his old boiler including labour costs and VAT up to the limit allowed by the policy. It must also pay interest on the amount it pays out at the simple rate of 8% per year from the date the need for a new heat exchanger was identified to the date it makes payment*.
- £350 for the distress and inconvenience it caused him.

Inter Partner Assistance SA must pay the total compensation within 28 days of the date on which we tell it Mr G 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 until the date of payment at 8% per year simple.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 1 September 2016.

Anastasia Serdari
ombudsman

* If Inter Partner Assistance SA considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Mr G how much it's taken off. It should also give Mr G a certificate showing this if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.