

complaint

Mr P complains that Aviva Insurance Limited (Aviva) has turned down a claim he made on his home emergency policy.

Background

In October 2018, Mr P began to experience issues with the hot water in his home. So he got in touch with Aviva, which sent out one of its engineers. The engineer replaced some parts and said the issue had been fixed. A couple of weeks later, Mr P experienced the same issue, so Aviva sent out another engineer. This time, the engineer couldn't find any problem.

A few days later, Mr P called Aviva again, as he said he didn't have any hot water. An engineer came out and thought the water in the tank was too low. About a month on, another engineer looked at the heating system. This engineer thought the problems were down to the heating system not being installed properly. A couple of days later, a gas engineer came out and came to the same conclusion. So Aviva turned down Mr P's claim.

Mr P wasn't happy with Aviva's decision and complained. Aviva suggested that Mr P could get his own independent report about what was causing the issue and it'd consider it. So Mr P asked an independent plumber to inspect his heating system. The plumber's report said the pipework had been installed correctly. Mr P sent this on to Aviva.

Aviva considered the report. It sent it on to one of its fieldwork specialists, who went out and inspected Mr P's heating system. He concluded that the issues were down to it not being installed correctly. So Aviva maintained its decision. But it agreed that the engineers who'd first attended Mr P's home should've identified that the fault was down to faulty installation of the heating system. So it offered to pay Mr P compensation of £120.

Mr P asked us to look into his complaint. He wasn't happy that Aviva had turned down his claim, given what his independent engineer had said. He said Aviva had agreed to pay him the cost of getting an independent report, but had then refused to do so. And he said it hadn't paid him the compensation it had offered.

Our investigator didn't think Mr P's complaint should be upheld. She acknowledged that Mr P did have a report from an independent engineer which contradicted what Aviva had said. But she noted that three separate Aviva engineers had inspected Mr P's boiler and overall, she found its evidence about the fault more persuasive. So she didn't think the claim was covered by the policy terms. She didn't think Aviva had told Mr P the cost of the report would be covered. And she felt £120 was fair compensation for the issues Mr P had experienced.

Mr P disagreed. He said his independent plumber had stated the heating system was installed according to British Standards. He has a genuine problem with the pipework and cylinder. He said he'd spoken to the company which'd installed the system and it said the problem was down to wear and tear. He felt disappointed by Aviva.

So the complaint's been passed to me to decide.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I think Aviva has handled Mr P's claim fairly. I'll explain why.

Mr P's policy is a home emergency policy, covering emergency repairs if things break down. It isn't a contract of maintenance, or designed to cover general wear and tear. So when Mr P called Aviva to tell it he was experiencing issues with his hot water, Aviva needed to look into what was happening and see if the fault was down to something covered by the policy. If it was, then Aviva would be responsible for putting the fault right.

Two of Aviva's engineers thought the issue was down to the heating system not being installed properly. So Aviva decided the claim wasn't covered and Mr P would need to pay the costs of getting remedial works done. But Mr P disagreed with Aviva's diagnosis. And I can understand why, given other Aviva engineers hadn't picked up on this potential fault when they'd been out to investigate the issues with his hot water. Aviva agreed at this point that Mr P could get an independent report to look into this issue. I think this was a reasonable response.

Mr P's independent plumber disagreed with Aviva's findings. I can see that Aviva reconsidered the claim based on this report and asked a specialist engineer to go and undertake a visit at Mr P's home. It appears that if the specialist had agreed with the independent plumber, Aviva would've agreed to deal with the claim. But as the specialist's findings supported the previous finding that the installation had been faulty, it maintained its position. So I've looked at the evidence provided by both Aviva and Mr P's plumber.

I've carefully considered the information I've been given about this claim, including Aviva's notes and Mr P's plumber's report. These pieces of evidence contradict each other, so in making my decision, I've had to weigh them up very carefully to see which I think is the most persuasive.

On the one hand, Mr P's independent plumber says: *'it was found that the pipe work was installed correctly in accordance with appropriate code of working practice...I find the heating system has been installed in a correct manor (sic) and find no issues with how the system has been installed.'*

Based on this report, I can understand why Mr P thinks Aviva should pay his claim. After all, he did what Aviva suggested he should do and paid for an inspection of his heating system.

But I also have to consider the evidence Aviva's provided. From the records, it looks like Mr P's heating system was inspected by three separate engineers who all thought the fault was down to poor installation. The first of these engineers said: *'the only possible issue I can see is that the vent pipe runs directly up from the hot water outlet on the cylinder, instead of being in a position where the hot feed drops to supply the taps.'* The second engineer said that the tank hadn't been correctly installed and would need to be moved.

The specialist engineer's report says he *'removed the lagging from the hot distribution pipe and found the pipe was running uphill in the wrong direction.'* He said *'this is incorrectly*

installed as air travels uphill and has nowhere to go. He thought that the vent pipe needed to be moved and the tank moved up.

This report appears to tie-in with what Aviva's other engineers found. And I've also borne in mind that the specialist engineer's report said he took off the lagging to inspect the pipes. Given tape was on this lagging, the engineer didn't think any of the other engineers had taken the lagging off while inspecting the pipes, including Mr P's plumber. This suggests to me that the specialist engineer undertook a more detailed inspection of the heating system than the other engineers.

Having considered the reports, overall, I'm more persuaded by Aviva's engineers' findings. I have to bear in mind that three separate engineers identified the same issue. And it seems that Aviva's specialist undertook detailed checks during his visit. So I think, on balance, it's most likely that the fault with the hot water was down to the heating system being incorrectly installed.

So I've carefully looked at the terms of Mr P's policy to see what it covers and what it doesn't. The 'general exclusions' of the policy lists things that specifically aren't covered. One of these says:

'Systems/equipment/appliances that have not been installed...according to British standards.'

Given the findings of Aviva's engineers, I think it was fair for it to turn down Mr P's claim. It seems the works needed to put the fault right aren't emergency repair works and instead are remedial in nature. So I don't think it needs to pay for the works to put things right.

Mr P says Aviva agreed to reimburse him for the cost of getting an independent report and it's now refused to pay this cost. I've thought carefully about this. But having looked at Aviva's records, it seems one of its agents spoke to someone representing Mr P. The agent told the representative that Aviva would refund the cost of an independent report *if* it was found Aviva had misdiagnosed the fault.

Following receipt of the report and the engineer's further inspection, Aviva didn't think it had made a misdiagnosis. So it didn't agree to refund the cost of the report. And as I agree Aviva most likely correctly identified the fault, I don't think it needs to refund the cost of the independent report.

Aviva accepts the initial engineers who attended Mr P's home in October 2018 didn't pick up on the fact that the hot water problems were down to faulty installation. So it offered Mr P £120 as compensation for its service. I've thought about whether or not this was fair compensation for Mr P's trouble and upset.

Overall, I think it was. While I don't doubt that the issues Mr P's experienced have caused him inconvenience, I have to bear in mind that he wasn't without hot water. And there's nothing to suggest he's had the remedial works done, so it seems he's able to put up with the hot water issues on a day to day basis. So I don't think Aviva needs to increase its offer of compensation.

Mr P said Aviva hadn't paid the compensation to him. It's now open to him to get in touch with Aviva to accept it if he chooses to.

my final decision

For the reasons I've given above, my final decision is that I don't uphold Mr P's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 30 April 2020.

Lisa Barham
ombudsman