

## **complaint**

Mr M's complaint is about the service provided by Aviva Insurance Limited in relation to his home emergency insurance policy.

Aviva Insurance Limited uses agents to deal with claims on its behalf, so any reference to Aviva in this decision should be read as also referring to those agents.

## **background**

On 13 November 2017, Mr M made a claim, under his policy as his boiler was leaking and there was also a leak from his hot water cylinder tank. Mr M paid the policy excess of £50 then. Aviva told him on two occasions that it would attend that day. However, this didn't happen. A new appointment was made for the next day between 12pm and 6pm. I understand, the contractor phoned just before 10am to say he would be there at 10am.

Having inspected the boiler, the contractor said it was beyond economic repair. The policy provides that if the boiler is more than seven years old, Aviva will provide a free boiler if Mr M pays the installation costs. (If the boiler had been less than seven years old, Aviva would have also installed it as part of the insurance cover.) The contractor did not look at the hot water cylinder tank that day.

Aviva arranged for one of its linked companies, that is responsible for the installation, to provide a quote. Mr M was not happy with the quote, of just under £1,500. Aviva arranged for another contractor to provide a quote but this was apparently the same.

I understand that Mr M had the new boiler installed privately on 21 December 2017 but on 23 December 2017, he contacted Aviva again about the problems with the hot water cylinder tank. He said it was overheating. One of Aviva's representatives was extremely rude to him on the phone. The same representative phoned him even when he had specifically asked him not to and repeated told him he was "irrelevant".

Aviva said his first claim was closed and so this would be treated as a new claim and Mr M would need to pay a second excess of £50, which he refused to do as he thinks it's a continuation of the first claim.

Aviva also told Mr M that his policy would not now cover the boiler and central heating system, until it carried out a 'health check' on the new boiler and agreed to cover it. In the meantime, his policy had been transferred to a similar policy but with no boiler cover, with effect from 16 December 2017, so there is no cover for the hot water cylinder. Mr M's new boiler comes with a guarantee and so he wouldn't need this policy anyway.

Aviva also says the policy was due to expire on 15 February 2018 anyway and it was shown as 'pending cancellation' after Mr M's call to cancel the automatic renewal of the policy on 5 February 2018.

Aviva did acknowledge that there had been some problems with the claim and offered £90 compensation.

Mr M was very unhappy with this and raised a complaint. After the complaint came to us, Aviva also offered to pay Mr M the amount a new boiler would have cost it to supply, *i.e.*

£347.40 plus VAT. It also told us that it could not find the recording of the telephone conversation of 23 December 2017.

Mr M has made a number of points in support of his complaint, which include the following:

- the costs of installation of the new boiler are extortionate; and he can't understand how this started at £1,422 for him to pay but when Aviva says it will pay him cash instead, it is only £347.40 plus VAT.
- He was not really offered a free boiler, but rather the cost of the boiler was incorporated into the extortionate installation cost quoted.
- He had a 12 month binding contract with Aviva and it therefore cannot downgrade his policy. This is a breach of his consumer rights.
- Aviva could not deal with the hot water tank during the first attendance, as the boiler wasn't working.
- There was a delay in Aviva getting back to him when he complained about the cost.
- The whole matter has caused him mental torture, anxiety and stress.
- He told Aviva in February 2018 that he did not want to automatically renew his policy but he then found out the policy had been cancelled.
- Aviva did not deal with his complaint properly and he was insulted and treated unfairly during telephone calls with one of its representatives, especially in the call of 23 December 2017.

One of our investigators looked into the case. He considered that the compensation should be increased to £150 and that this taken with the payment in lieu for the cost of the boiler would be sufficient compensation. The investigator also initially considered that Aviva was entitled to remove cover for the central heating system and so it did not need to attend to the hot water cylinder issue.

Aviva accepted the investigator's assessment of the complaint but Mr M did not and so the case has been referred to me.

Following this, the investigator put it to Aviva that the policy did not allow it to remove cover for the entire central heating system (so including the hot water cylinder) and so the claim for the cylinder should be dealt with.

Aviva disagrees. It says that the 'gas central heating' part of the cover combines cover for the boiler and the rest of the central heating system. It is not possible to remove cover for the boiler only; and once a new boiler has been installed, cover for both the boiler and rest of the central heating system is removed.

As the investigator was unable to resolve the complaint, 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.

Under the terms of Mr M's insurance policy, Aviva was only ever liable to provide a new boiler, not to pay the installation costs. And there is no provision for it to pay for the new boiler, if the installation is not carried out by one of its preferred contractors. Mr M was unhappy with the installation quotes he was provided with from Aviva's preferred contractors

and chose to have it installed by his own contractor. However, Aviva is not responsible for the quotes – these were not being provided under the insurance policy. I can't therefore look at whether these quotes were fair market rate. In any event, Mr M chose to use his own contractor, which he was free to do.

Aviva has however, offered cash in lieu of the new boiler of £347.40 plus VAT, which I consider to be fair and reasonable in all the circumstances. The cash offer is for the supply of the boiler itself, not the installation costs, which is why there is a difference between the quote Mr M had been provided with for installation and the £347.40 plus VAT offered in lieu of the boiler.

With regard to the second claim, Aviva has confirmed that its records show that Mr M reported a problem with the hot water cylinder tank on 13 November 2017, at the same time as the problem with the boiler. It also confirmed that it couldn't deal with the tank on that day. But its system notes say the tank issue was resolved on 15 November 2017, when it replaced the filling loop and isolation valves. Mr M says the tank is now overheating but there's no convincing evidence that this is related to that earlier problem

Aviva also says that there is now no cover for the cylinder (or any other part of the central heating system) and so this new claim is not cover.

The policy terms state that once a boiler has been replaced, cover for the boiler will no longer be in place: "*once your boiler has been replaced...you will be transferred to a similar policy without cover for your gas boiler*".

As the risk has now changed, as a new boiler has been installed, it does mean Aviva will be entitled to change that part of the cover. I don't consider it has acted unfairly in stating it will not cover the new boiler in Mr M's property unless and until it has had the chance to check it.

However, Aviva removed cover for the entire central heating system. I don't agree that it is entitled to do that. Aviva has said that the boiler and central heating cover is all included in one combined section of the policy, and it can't therefore only remove cover for the boiler. But the policy provides a definition of the "*boiler and central heating system*" which says:

*"the boiler includes the isolation valve, all manufacturer's fitted components within the boiler together with the pump, motorised valves, thermostat, timer, temperature and pressure controls, chimney structure/flue and expansion cistern."*

It then says the "*central heating system includes radiators, radiator valves, interconnecting pipework, feed & expansion cistern and if applicable, the hot water cylinder, its associated pumps, controls and immersion heater*".

The boiler and the central heating system have different definitions in the policy and the hot water cylinder is not included as being part of the boiler. So while there is a section of the policy issued to Mr M that includes cover for both the boiler and the central heating system, the policy terms that Aviva is relying on (*i.e.* that Mr M "*will be transferred to a similar policy without cover for your gas boiler*") only allows it to remove cover for the boiler.

I consider that Aviva should therefore have dealt with Mr M's claim in relation to the hot water cylinder. It would be entitled to charge a separate excess for this, as it does seem to be a new issue. It's not clear whether Mr M has had anything done with the cylinder yet but Aviva should reassess that claim.

I also note that the policy ended in February 2018. I can't see that Aviva cancelled the policy entirely before that date, rather it removed part of the cover as discussed above. All other parts of the policy ran until the end of the policy year, as far as I'm aware.

Mr M is also extremely unhappy with the way he was spoken to by Aviva and the delays involved in his claim. Aviva has not provided a recording of the relevant telephone call. I am surprised it can't do so. It has however referred in its notes to a couple of calls on 23 December 2017, including one that was over two hours long; and I note it has written to Mr M to apologise about the call and to state that it has provided feedback to the individual he spoke to. So it would seem it accepts this call did not go as it should have done.

I can understand that the whole episode was frustrating and stressful for Mr M but not all of that is due to anything Aviva did wrong and he still would have needed to get a new boiler. Having considered all the evidence, I consider that the sum of £150 recommended by the investigator together with the cash in lieu payment for the boiler itself is appropriate compensation for the distress and inconvenience caused to Mr M by the way the claim was handled (including the delays and the telephone call referred to above).

#### **my final decision**

I uphold this complaint against Aviva Insurance Limited and require it to do the following:

- reassess Mr M's claim in relation to the hot water cylinder, subject to the remaining terms of the policy;
- pay Mr M the sum do £347.40 plus VAT; and
- pay Mr M the sum of £150 compensation for the distress and inconvenience caused by its handling of his claim.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 26 April 2018.

Harriet McCarthy  
**ombudsman**