

## complaint

Mr C's complaint is about the handling of a claim under his home emergency insurance policy with Aviva Insurance Limited. Aviva uses agents to manage claims on its behalf. As the claims-handling agents were acting on behalf of Aviva, whenever I refer to Aviva in this decision it should be read as including those agents.

## background

In August 2017, Mr C made a claim under his policy when his boiler stopped working. Aviva arranged for a gas engineer to attend. He advised that the printed circuit board ("PCB") needed to be replaced. The engineer arranged to order the part to be fitted at a later date. A second engineer then attended and found water in the boiler, which he thought was due to corrosion of the boiler flue.

Aviva said the flue had holes in it making it dangerous to use and due to the age of the boiler, it was unable to obtain a replacement flue. Aviva therefore cancelled the policy cover for the boiler, in accordance with the following policy term:

*"Obsolete parts and BER - first 6 months - If upon making a claim during the first 6 months of cover your boiler is deemed to be beyond economic repair (BER) or the parts required to fix your boiler are obsolete, you will be transferred to a similar policy without cover for your gas boiler"*

Mr C is very unhappy with this. He said Aviva should still have replaced the PCB. He appointed his own boiler engineer to look at the boiler, who turned it back on and it has been working properly ever since. After waiting to see if the boiler would continue to work, he applied for cover with an alternative insurance provider. That provider inspected his boiler, issuing a checklist confirming the flue was fine, and agreed to cover him.

One of our investigators looked into the matter. He didn't recommend that the complaint be upheld, as he was not persuaded there was enough evidence that Aviva had acted unreasonably.

Mr C doesn't accept the investigator's assessment and so the matter has been referred to me. Mr C has made a number of submissions, in his initial complaint and in response to the investigator. I have summarised these below:

- he had paid Aviva's engineers to carry out a powerflush that it told him was required before it would provide the insurance in April 2017. Aviva also carried out an annual service on the boiler then four months later, he's told the boiler is obsolete. The corrosion can't have happened in that four month period.
- Aviva forged his signature on its engineer's report; the signature is not his and it appears to have been created on 10 October 2017.
- All independent gas safe engineers need to follow the same guidelines to assess if a boiler is safe or not. So how is it that Aviva's engineer's report is accepted (when he has not assessed the safety aspect of the boiler at all) but the other two independent engineers' reports are rejected just because they have not specified anything about the flue in their reports?
- There's no evidence the boiler was unsafe to operate and neither engineer he called in since placed an 'at risk/dangerous to use' notice on the boiler, which is the practice in such situations.

- The investigator has not dealt with the poor customer service he experienced.
- Mr C says he feels the investigator has simply accepted Aviva's evidence without question and has asked him to provide evidence to counter this, instead of asking Aviva to substantiate why it says the flue is dangerous,
- He does not intend to spend any more money on getting another engineer, as he thinks he has provided enough evidence to support his case.
- It has been more than a year and the boiler continues to work safely and without any issues, which proves that Aviva misdiagnosed the problem.
- If Aviva thinks that a faulty flue was causing the issue and it has been obsolete for years, why did it not tell him it would not be able to cover the boiler at the beginning of the contract? And if the flue was causing the issue, how does the boiler continue to work without any problems since then (using the very same flue)?
- Both the independent Gas Safe engineer and the other provider Gas have confirmed that boiler is working properly and safe to operate.

Mr C asks for £10,000 compensation for the hardship caused to him and his wife who was recovering from surgery and needed a warm house.

### **my findings**

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

Aviva's engineer's note of his attendance on 9 August 2017 says he detected gas outside the boiler and found the "*flue rotted out and allowing water into boiler*". He put an 'at risk' notice on and turned the boiler off.

This report is apparently signed by Mr C but he says Aviva forged his signature. There is no convincing evidence that Aviva forged Mr C's signature on the report. Its difficult to see any reason why it would do so, given there doesn't seem to be any dispute that the report reflects what that engineer said and did on the day. I also note that the signature for Mr C on this report is not so dissimilar from the one on the annual service report Mr C provided from his new insurance provider, as to be obviously not the same person's signature. I'm not therefore persuaded that there is sufficient evidence that this was forged.

Mr C also says the report is wrong and the engineer misdiagnosed the problem with the boiler, as it has been working since his own engineer attended on 14 August 2017. The report from this engineer says:

*"14/08/2017 Visit Description : Gas boiler failure  
Accepted Time : 08:16 Travel Time : 08:16 Arrive Time : 08:16  
Visit Time : morning Completed Time : 08:19  
Engineer Feedback : Arrived at property to find warning sticker on gas boiler. Boiler is working correctly and sticker has been removed. Customer will keep us informed of boiler operation Boiler has been left running and is safe to operate."*

This records that he was at the property for three minutes and only looked at the boiler and not the flue. Aviva does not therefore accept that this is sufficient to prove that its engineer was incorrect in diagnosing that the flue needed to be replaced. I agree. The engineer spent very little time looking at the boiler, doesn't mention the flue and seems to have simply turned the boiler on and left. I am not able to accept this is enough to establish that Aviva's engineer's were incorrect.

Mr C has provided a boiler annual service check list from another provider dated 4 May 2018 (around nine months after he made the claim to Aviva) which says the boiler is working well and the flue has been checked and is fine. This does prove the boiler and flue are both safe and working well - as of May 2018 - but doesn't prove that this is the case from August 2017.

I note Mr C says he waited to see if the boiler continued to work okay before arranging alternative insurance (and also said he thought he needed to let the policy with Aviva expire) but even if I accept this, I can't accept the report as proof that Aviva's engineer was incorrect.

Mr C has said we should be asking Aviva for more evidence about why the flue was unsafe, rather than asking him to provide evidence it is not. Aviva did provide evidence it was unsafe – from its gas engineer whose report is cited above, says it was rotted and causing water into the boiler and gases to escape. The engineer also took several photos of the boiler and the flue to support his report. Aviva has also had these looked at by another engineer who confirmed they showed evidence of water damage and corrosion present in the boiler. Mr C is effectively asking me to disregard that evidence and accept that the flue was safe and was not corroded. I can't do so without some evidence from a suitably qualified source. There is no such evidence available.

Mr C has suggested that a problem with the flue does not render the boiler unsafe but I am unable to accept this. It is correct that the boiler itself might still work but it can't or shouldn't be used with a faulty flue. It is part of an annual service to check that the flue is safe, as it is required to take the products of combustion away from the boiler and safely out of the property. If the flue is damaged / faulty this will usually mean the boiler can't be used.

Mr C also says that if the flue was so important, Aviva should have checked it during the first inspection before taking out the policy. I don't know whether it did so or not. As Mr C has said, the corrosion would not all have happened within four months but it is possible it was still safe to use in April 2017 but became dangerous over the next few months. In any case, Aviva was prepared to cover the boiler and flue and was prepared to replace the flue. It only couldn't do so because it found later that it was obsolete and couldn't therefore get a replacement. Parts are sometimes available to buy still for some time after they become obsolete (and are no longer being manufactured) and Aviva was prepared to cover the boiler and flue, so I am not persuaded that it should never have offered the insurance in the first place.

Mr C is also unhappy with the service provided by Aviva, particularly in relation to his complaint and the delays in answering it. I do not consider that the claim was handled unreasonably. There were no unnecessary delays and while Mr C was unhappy with the outcome, I do not consider that Aviva needed to do anything further in relation to the claim. Aviva did cause delays in answering Mr C's complaint but he had the right to come to us if he did not get any response within eight weeks of making the complaint to Aviva and it also let him know this. So while it must have been frustrating to have to wait and chase up a response, his rights were unaffected. I do not therefore consider that any award is required for this.

**my final decision**

I do not uphold this complaint against Aviva Insurance Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 19 October 2019.

Harriet McCarthy  
**ombudsman**