

complaint

Mrs P has complained that her claim for the cost of a replacement boiler was unfairly declined under an insurance policy. Her policy is provided by a syndicate at The Society of Lloyd's ("Lloyd's").

background

Mrs P took out a policy with Company A to service her boiler and to cover it against breakdown. In February 2017 she made a claim for repair, but this was turned down. Company A said the breakdown was caused by lime scale and this wasn't covered under the policy.

Mrs P wrote back about a month later to say she thought the claim had been incorrectly turned down. She said a second engineer had looked at the boiler and thought there was lime scale in the heat exchanger because there was a hole in it. Mrs P said a seal had failed, and this should've been replaced under the service agreement she'd had in place for several years. Mrs P had bought a new boiler in replacement and asked for £2,500 – the new boiler cost more, but that was the most she could claim under the policy.

Mrs P says nobody from Company A came back to her about her claim, so she complained directly to Lloyd's. She asked for the £2,500 to be paid out plus a refund of all of the premiums paid under the agreement.

After that Company A offered to pay Mrs P £228, which was the cost it says it would've paid to repair the boiler through its own repair network, plus £200 for any trouble and upset caused. But it didn't agree to pay anything further until another engineer said the old boiler was beyond economic repair – Mrs P said she'd kept the old boiler to be inspected if needed.

Mrs P didn't think this was enough, so she brought her complaint to this service. In response Company A increased its offer for the trouble and upset caused to £340.

One of our investigators looked into Mrs P's complaint, but didn't think it was one that should be upheld. He thought Mrs P should've gone back to Company A before the boiler was replaced to see if it could've been repaired. So he thought the offer made was fair. Mrs P disagreed, so the complaint was passed to me for a decision.

I issued a provisional decision as I came to a different conclusion to our investigator. I explained that I'd considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I noted that Company A had changed its position from saying the damage was caused by something that wasn't covered under the policy to offering to pay Mrs P what it would've paid to repair the boiler. I noted this was a fixed fee that Company A pays to engineers to repair faults, not the actual cost to repair Mrs P's boiler.

But Mrs P wanted the cost of a replacement boiler and her policy said:

“If the ...engineer cannot repair Your central heating boiler We have the option to replace the boiler with one of equivalent specification or as close as possible to Your original boiler subject to:

- (i) *At the Initial Policy Start Date if Your boiler is less than 7 years old We will pay up to £2500 for boiler replacement in any Policy Period.”*

So I thought I needed to know whether or not the boiler could've been repaired. If it could've been it might be the cost of repair was the right amount, but if it couldn't be repaired I thought the cost of replacement would be fair.

I asked Company A whether it would be prepared to inspect the old boiler Mrs P had kept, but it didn't agree to – it said as the boiler wasn't now connected to services and had sat for a number of months, it wouldn't be possible to say whether it could've been repaired at the time of the breakdown.

So I thought about the damage to the boiler based on the evidence I'd seen. Neither the engineer from Company A nor the second engineer said whether or not the boiler was repairable. But the second engineer said a hole in the heat exchanger meant water was sprayed into the combustion chamber which '*destroyed the heat exchanger, burner and associated parts*', so I thought the damage was significant.

And I thought if the boiler could've been repaired, Mrs P would've most likely got that done. So the fact she hadn't indicated it was more likely than not that the damage was beyond economic repair.

I thought Mrs P's old and new boilers were of a similar specification. And I saw an invoice for £2,600 for the new boiler. So I thought it was fair for Mrs P to get a contribution of £2,500 toward the cost of a replacement boiler, plus 8% per annum simple interest for the time she's been out of pocket. I also thought Mrs P should be paid £100 for the stress of arranging a second engineer and for the short delay in ordering a replacement boiler.

Mrs P asked for the return of her premiums. But I tried to put her in the position she'd have been in if the policy had paid out. For that to have happened, she'd have had to make the premium payments towards the policy, so I didn't think it was fair for these to be refunded.

Mrs P replied to my provisional decision and said she agreed with my conclusions.

Company A, through Lloyd's, said that it could've paid around £1,200 to replace the boiler, not the amount Mrs P actually paid.

my findings

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

Lloyd's hasn't given me any reason to depart from my provisional findings that Mrs P's boiler was beyond economic repair. So, for the same reasons as set out in my provisional findings, I think it was more likely than not that the damage was beyond economic repair. It follows Lloyd's needs to pay a contribution to the cost of Mrs P's replacement boiler.

Mrs P has provided a receipt to show she paid a deposit of £600 for her new boiler on 27 February 2017, with the balance of £2,000 on 7 April 2017. So she paid £2,600 for her new boiler, not the £1,200 Company A say it could've obtained it for.

I think Mrs P acted reasonably when she bought a replacement boiler – the old one failed during winter and Company A hadn't provided any assistance by repairing or replacing the old boiler. I accept that Company A could've got a replacement boiler for less than Mrs P paid, but that wasn't offered to her at the time. So I think it's fair to hold Lloyd's to the amount set out in the policy terms - £2,500.

my final decision

For the reasons set out above, I uphold Mrs P's complaint. I direct The Society of Lloyd's pay Mrs P the following:

- £100 for the trouble and upset caused.
- £2,500 toward the cost of replacing her new boiler, plus 8% per year simple interest from the date she paid the boiler invoice to the date she gets paid.

If The Society of Lloyd's considers that it's required by HM Revenue & Customs to withhold income tax from that interest, it should tell Mrs P how much it's taken off. It should also give her a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 27 December 2017.

Mark Hutchings
ombudsman