

## **complaint**

Mr B complains that British Gas Insurance Limited dealt with his claim under a home emergency policy unfairly and unreasonably. He wants compensation.

## **background**

Mr B had a home emergency policy with British Gas, which covered repairs needed in Mr B's property for plumbing and drainage (amongst other things). Mr B's property had only one bathroom (and toilet) and the drainage pipe became blocked. British Gas' engineer attended and Mr B said that he was uninterested, didn't try to fix the pipe as he said that it had been incorrectly installed and downgraded the issue from an emergency. Mr B said after being unable to live in his home for three days and further visits by engineers without any repair, he cancelled the policy and used his home insurance to get the problem solved immediately. Mr B said that he and his relative had to take time off work to deal with British Gas.

Mr B complained to British Gas. It said Mr B was told on the second visit that the work was covered by the policy, but on the third visit the engineer needed him to sign a disclaimer form as work was required underneath floorboards. Mr B refused to sign the form. But British Gas said that the person who attended the second visit was a plumbing engineer and couldn't advise on drains. It also pointed out that the terms and conditions of the policy said that incorrect installations weren't covered by the policy. As a gesture of goodwill, it refunded half of the premiums paid by Mr B (£72.10) as it had delayed in dealing with the complaint and incorrectly said that the work was covered by the policy.

Mr B complained to us, and said that he'd refused to sign the disclaimer due to the attitude of the engineers and the fact they said there was a 50% chance of damage to his property or that of his neighbours. He also pointed out that the blockage was in the pipework and cleared by a third party within two hours.

The investigator's view was that British Gas was at fault. The policy didn't say that Mr B had to sign a disclaimer form for work to be carried out. She also thought that it was unreasonable that Mr B had to wait three days when his only bathroom was unusable; it caused him to stay elsewhere. The investigator also noted that while the policy excluded repairs needed due to incorrect installation, British Gas told Mr B the work would be covered. She said British Gas should refund all the premiums paid and pay £50 for Mr B's trouble and upset (which included the seven month delay in responding to his complaint).

British Gas disagreed. It said that the work wasn't covered under the policy due to incorrect installation (the pipe was flat) and the existence of a macerator; it didn't think more compensation was justified. The investigator said that British Gas told Mr B the work was covered and reiterated that the policy didn't say Mr B had to sign a disclaimer form to get work done; she didn't think it was unreasonable for him to refuse to sign given he was being told there was a 50/50 chance of damage. British Gas said the disclaimer was a way for it to manage the risk and it would've carried out other work if necessary under the policy. It said that the first engineer did try to clear the blockage in any event. The investigator didn't change her view.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Complaints handling isn't an activity within the jurisdiction of this service, but I can consider whether British Gas generally acted fairly and reasonably.

British Gas didn't act fairly or reasonably when dealing with Mr B's claim in my view. It accepts that the professionals it sent to the property gave conflicting information to him about whether the policy covered the repair needed, but in the end it did proceed as if the work was covered. That's sufficient in my view to bind British Gas to carry out the work it said was covered by the policy. And I would point out that the evidence shows that the issue of whether the pipe was incorrectly installed isn't straightforward; British Gas' own professionals disagreed and the only photo is taken at an angle that doesn't confirm clearly whether or not the pipe was flat.

What isn't in dispute is that there was a macerator in place. And the terms and conditions do exclude macerators from the policy. But this wasn't given as a reason at the time or in the final response letter for the work not being carried out.

Why wasn't the work carried out promptly, given Mr B only had one bathroom and toilet and therefore with the drainage blocked, the property wasn't habitable? The initial reason was because the engineer on the first visit said the installation was incorrect. I haven't seen sufficient evidence that this was right. But on the second visit, British Gas accepted that the work was covered, but delays continued as sufficient engineers weren't sent to work at height (despite the site having been inspected twice by this point).

The work then didn't proceed because Mr B was asked to sign a disclaimer form. I've seen the form he was asked to sign; it doesn't relieve the contractor of all liability – it remains liable for negligence. But it must be borne in mind that consumers are being asked to sign forms when under pressure and the policy doesn't say that British Gas can refuse to provide the service under the policy (for which the consumer has paid) if a form it's drawn up isn't signed (with the consumer given no chance to take legal advice).

I have to step back and consider whether it was fair and reasonable to require Mr B to sign the form in the circumstances. I don't think that it was – British Gas doesn't dispute that Mr B was told there was a good chance of damage occurring, or that the final repair didn't need the floors to be uplifted in any event. I think a consumer, after three days of trying to get back into their home and being told that engineers think there's a reasonable chance of further damage occurring, and following the receipt of conflicting advice from British Gas, shouldn't have been put in that position. British Gas says that it wanted to mitigate its risk, but hadn't done much to help Mr B before requiring him to sign a form in such circumstances. The policy doesn't say that British Gas can do this before carrying out work.

And it was understandable that after this experience Mr B cancelled the policy. I think it's fair and reasonable for all of the premiums to be refunded to Mr B. He didn't receive any benefit.

I considered compensation for Mr B's trouble and upset. We award on the basis of the actual trouble and upset suffered, and I note that Mr B feels £50 is fair and reasonable. Given the delays, the conflicting information and the upset caused by being unfairly asked to sign a disclaimer form, I think £50 compensation is fair and reasonable, particularly when I bear in mind that really the repair wasn't covered under the policy due to the macerator exclusion.

**my final decision**

My final decision is that I uphold the complaint and British Gas Insurance Limited should refund all of Mr B's premiums (minus any refund already received, unless the cheque is now expired) and £50 compensation for his trouble and upset. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 31 August 2019.

Claire Sharp  
**ombudsman**