

## **complaint**

Mr B complains that British Gas Insurance Limited is responsible for poor service in connection with a home emergency insurance policy.

## **background**

Where I refer to British Gas I refer to the insurance company of that name and I include its associated plumbing and drainage company, engineers and others for whose actions I hold that insurance company responsible.

Mr B's complaint concerns a ceramic pipe underground. Mr B and British Gas and the adjudicator have sometimes referred to it as a sewer. As I don't think it serves any property other than Mr B's, I will refer to it as a drain or foul drain.

Mr B had British Gas cover including for plumbing and drainage. He called for help with a blockage of his drain. British Gas cleared the blockage. Mr B complained that British Gas wouldn't mend a hole in the top of the drain. So the hole would again allow material to fall into the drain and block it, he said.

In a final response letter, British Gas said its policy didn't cover the repair of the hole. It said it had done enough by restoring flow and the pipe was working properly.

### *our adjudicator's opinion*

Our adjudicator didn't recommend that the complaint should be upheld. He didn't think that British Gas had applied the policy terms unreasonably. British Gas had left the sewer running clear and, although there was a hole, it wasn't currently leaking, the adjudicator said. Therefore he didn't recommend that British Gas carry out a repair under the policy.

### *my provisional decision*

After considering all the evidence, I issued a provisional decision on this complaint to Mr B and to British Gas on 25 November 2019. I summarise my findings:

I'd found that there was a hole in Mr B's soil pipe and it was leaking.

I was minded to find that British Gas didn't treat Mr B fairly by declining to repair it.

Subject to any further information from Mr B or from British Gas, my provisional decision was that I was minded to uphold this complaint. I intended to direct British Gas Insurance Limited to pay Mr B:

1. £470.00 in reimbursement of the cost of repair; and
2. simple interest on that amount at a yearly rate of 8% from 16 July 2019 to the date of reimbursement. If British Gas considers that it's required by HM Revenue & Customs to withhold income tax from that interest, it must tell Mr B how much it's taken off. It should also give him a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate; and
3. £100.00 for distress and inconvenience.

Mr B agrees with the provisional decision.

British Gas disagrees with the provisional decision. It says, in summary, that:

- The damage in the pipe was at the top (12'o'clock) and did not restrict the flow of the drain. Therefore British Gas fulfilled its obligation by unblocking the drain. The drain was "serviceable" as per the industry guidelines.
- There is no evidence that the hole in the top of the pipe was allowing debris to fall into the pipe and cause a blockage. The blockage could just as easily have been caused by whatever products the customer had been putting into their drainage system.
- There were no other defects with the drain run, just the hole. British Gas has sent us a photograph.

### my findings

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

### history

Mr B moved to his current address in 2005.

I accept that Mr B has had British Gas cover since at least 2010. I'm aware of various editions of policy terms from October 2015.

### policy terms

The cover was for central heating, home electrics, plumbing and drains. Claims were subject to a £50.00 excess. Mr B allowed his policy to renew on about 3 October 2018. So the relevant policy terms were the edition dated June 2018. They included the following:

#### *"Drains*

##### *What's covered*

- Repairing and unblocking drains to restore flow**
- Repairing leaks to internal waste water pipes and external soil and vent pipes**
- A replacement of parts that we can't repair**
- Accidental damage**

#### *Drains*

##### *What's not covered*

- Rainwater guttering and down pipes, manholes and their covers, soakaways, septic tanks, cesspits, drainage pumps, treatment plants and macerators and their outflow pipes*
- Cleaning and descaling your drains*
- Shared drains"*

The words or phrases in bold type each have a definition in the policy including the following:

#### **"accidental damage**

- when you do something that stops your boiler, appliance or system from working properly – without meaning to.

**drains**

- the system of waste water pipes on your **property**.

**repair(s)/repairing/repared**

- to fix your boiler, appliance or system following an individual fault or breakdown but not **repairs** that are purely cosmetic or related to software which doesn't stop the main function of your boiler, appliance or system from working or make it unsafe."

In addition there is the following definition:

"By 'you' or 'your', we mean the person(s) named on your **statement**, plus the people who normally live in your **home**, including any tenants"

And there was the following general exclusion:

**"Making any improvements**

Your **product** only includes **repairing** or **replacing** your boiler, appliance or system when it stops working properly – it doesn't include any improvements or **upgrades**, for example: **replacing** smoke alarms that are past their recommended replacement date or expiry date, **replacing** working radiators, swapping standard radiator valves for thermostatic ones and **replacing** electrical cables and fuseboards that still work. Where we've told you that an improvement is necessary, we may not continue to make **repairs** on that part of your boiler, appliance or system unless the work has been carried out."

I consider that a foul drain pipe is working properly when it contains any waste water while allowing it to flow. I consider that a foul drain pipe isn't working properly if it is blocked or leaking. I wouldn't describe a leaking foul drain as "serviceable".

From the "What's covered" section I find that the words "to restore flow" limit the extent to which British Gas undertook to repair or unblock drains that weren't flowing.

I find that – in addition to that – the policy covered repairing leaks to external soil pipes and vent pipes.

There's no policy definition of "soil and vent pipes". But the policy terms include a coloured diagram showing what British Gas could cover. It shows a toilet connecting to an external vertical pipe which I would describe as an external soil vent pipe. That connects with a horizontal underground pipe. I consider it reasonable to describe that pipe as a foul drain or a soil pipe. The diagram shows it leading to a "Main drain".

So I find that British Gas undertook to repair such a pipe if it were leaking – even if it were still allowing flow.

facts

From his description and photographs, I find that the blockage was in Mr B's soil pipe. On Friday 8 March 2019 British Gas cleared the blockage and restored its flow. From a camera survey British Gas said there was a hole in the top of the pipe.

Mr B's first letter of complaint included the following:

*"Remove full bucket of stone/soil"*

British Gas didn't refute that. So I find it likely that debris had fallen through the hole and caused the blockage. The British Gas photograph shows a cleaned drain with no trace of debris. But I find it likely that material was likely to fall through the hole and cause another blockage.

I accept Mr B's statement that British Gas estimated the cost of excavation and repair as about £500.00.

It was 20 March 2019 before British Gas responded to Mr B's calls about repairing the hole. In the absence of call recordings from British Gas, I accept Mr B's statement that two British Gas call-handlers told him it should cover his claim. But I don't think that could change the effect of the policy wording.

The appropriate British Gas team said the policy didn't cover a repair of the hole. British Gas sent a final response letter in late March 2019. British Gas apologised for the delay since 8 March and offered £50.00 compensation in respect of this. But British Gas didn't change its decision on the claim.

From two invoices dated 15 and 16 July 2019, I see that Mr B paid £85.00 for a survey and £385.00 for excavation and repair of the pipe (a total of £470.00). That's a little less than British Gas estimated.

From photographs of the excavation, I accept that the pipe was about one metre underground. It had a large hole in the top. I find the hole consistent with impact rather than gradual deterioration. And I find it likely that the pipe was leaking – at least when a large volume of waste water flowed along it.

"Repairing and unblocking drains to restore flow"

I'm satisfied that British Gas had done enough to meet the requirement of "**Repairing and unblocking drains to restore flow**".

"Accidental damage"

I haven't seen enough evidence to persuade me that the hole was caused by Mr B or any of the people who normally live in his home. So the hole didn't meet the policy definition of accidental damage.

"Repairing leaks to ...external soil and vent pipes"

I've found that there was a hole in Mr B's soil pipe and it was leaking. So I find that British Gas didn't treat Mr B fairly by declining to repair the hole.

So I find it fair and reasonable to direct British Gas to reimburse Mr B £470.00 for the cost of repair. As he's been out of pocket since July, I intend to direct British Gas to add interest at our usual rate.

I find that – by unfairly declining his claim – British Gas caused Mr B distress and inconvenience. In particular he lived for about four months with the expectation that the hole would cause another blockage. He had to find a contractor to excavate and repair the pipe.

So I find it fair and reasonable to direct British Gas to pay Mr B – in addition to its payment of £50.00 for delay – a further £100.00 for distress and inconvenience.

**my final decision**

For the reasons I have explained, my final decision is that I uphold this complaint. I direct British Gas Insurance Limited to pay Mr B:

1. £470.00 in reimbursement of the cost of repair; and
2. simple interest on that amount at a yearly rate of 8% from 16 July 2019 to the date of reimbursement. If British Gas considers that it's required by HM Revenue & Customs to withhold income tax from that interest, it must tell Mr B how much it's taken off. It should also give him a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate; and
3. £100.00 for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 5 January 2020.

Christopher Gilbert  
**ombudsman**