

complaint

Mrs S complains because Royal & Sun Alliance Insurance Plc ('RSA') hasn't dealt with a claim under her home emergency insurance policy.

background

Mrs S made a claim under her insurance policy with RSA because her boiler broke down.

RSA sent an engineer to look at the boiler, and Mrs S says she was told there was a problem with the fan. A few days later, RSA told Mrs S she needed to provide paperwork to show her boiler had been serviced before any parts could be fitted.

Mrs S said she wasn't told up-front that this would be needed – and that her private engineers don't give her service paperwork. RSA then said its engineers could carry out a repair outside of the policy terms and conditions, if Mrs S paid for it.

Instead, Mrs S paid £320 to have her boiler repaired privately – and she complained to RSA.

RSA said it would refund Mrs S for the cost of the repair if she could send it paperwork to show the boiler had been serviced – and offered to pay her £50 for any inconvenience or confusion caused. Mrs S then brought her complaint to this service.

Our investigator thought the offer RSA had made was fair. But Mrs S didn't agree, so the complaint was passed to me.

I sent my provisional decision about Mrs S's complaint earlier this month. In my provisional decision I said the following:

The general conditions of Mrs S's policy say:

*"These are the conditions of the insurance **you** will need to meet as your part of this policy....
Serviced within the last 24 months
The **main heating system** must be serviced and maintained by a registered **tradesman** providing certification or other proof of service within the last 24 months".*

The policy exclusions say the following isn't covered:

*"Any failure of the **main heating system** where it has not been properly maintained and serviced by a registered **tradesman** providing certification or other proof of service within the last 24 months".*

In my provisional findings I explained that, generally, insurers are entitled to decide what risks they want to cover and what risks they want to exclude.

But I said RSA's policy sets out the requirement to have a service carried out as both an exclusion and a condition of cover. I thought, in reality, this requirement was a condition precedent of cover – and not a policy exclusion.

A policy exclusion sets out what risks aren't covered by the policy. But a condition precedent means the policyholder must take certain steps before they have any right to benefit under

the policy. I said I thought what RSA was trying to do here was to require policyholders to have their boiler serviced every 24 months before any cover for the main heating system would be provided under the policy – so I thought this was a condition precedent to cover.

I explained that the general approach of this service – and of the insurance industry – is that it's unfair and unreasonable to reject a claim for breach of a policy condition, unless the breach has caused some detriment to the insurer. And I pointed out the Financial Conduct Authority's rules on insurance claims handling say an insurer shouldn't unreasonably reject a claim for breach of a policy condition, unless the circumstances of the claim are connected to the breach.

I said I didn't know whether or not Mrs S had her boiler serviced in the 24 months before the claim. But, even if Mrs S didn't have her boiler serviced, it was up to RSA to show how it was prejudiced by this.

So, I said RSA needed to show this claim wouldn't have happened if Mrs S had her boiler serviced in the last 24 months. But, I said I hadn't seen any evidence from RSA that a boiler service in the last 24 months would've prevented Mrs S's boiler from breaking down.

So, overall, I said I didn't think RSA had acted fairly and reasonably here and I thought it should refund Mrs S the money she paid to have her boiler fixed.

I also considered the delays and the overall way RSA handled Mrs S's claim – and I thought the £50 offered was fair compensation for this in the circumstances.

Therefore, my provisional decision was that I intended to uphold the complaint and recommend that RSA should pay Mrs S £320 on production of an invoice, together with interest – as well as £50 compensation.

RSA responded to my provisional decision and said Mrs S's policy isn't a maintenance contract and she should be able to provide a copy of the service paperwork. RSA said it's within its rights to ask for copies of this paperwork – and that it would consider refunding Mrs S upon receiving the paperwork.

Mrs S responded to my provisional decision and said she has had her boiler serviced every year. She also said she wanted a refund of the policy premiums from RSA and higher compensation.

my findings

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

Mrs S has said she can't provide any service paperwork. But – for the reasons set out in my provisional decision - I don't think she needs to.

Even if Mrs S hadn't had her boiler serviced, I don't think RSA can rely on the policy condition about servicing to turn down Mrs S's claim - unless RSA can demonstrate that a boiler service could've or should've prevented the boiler breakdown.

I don't think RSA has demonstrated this – so it should refund Mrs S for the cost of the repair.

As I'm recommending that RSA should pay Mrs S a benefit under her policy, RSA is entitled to keep the premiums paid for the policy. So, I won't be recommending that Mrs S be refunded these.

I've considered what Mrs S has said about the level of compensation offered. I've taken into account what she's told us – as well as the length of the delay. I've no doubt that Mrs S was inconvenienced because of what RSA did here. But, overall, I still think £50 is a fair offer.

my final decision

My final decision is that I uphold Mrs S's complaint.

Royal & Sun Alliance Insurance Plc must do the following:

- Pay Mrs S £320, on production of an invoice from Mrs S;
- Pay Mrs S interest at 8% simple per annum on this amount, from the date the invoice was paid;
- Pay Mrs S the £50 compensation it has already offered.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 19 June 2017.

Leah Nagle
ombudsman