

complaint

Mr F's complained that British Gas Insurance Limited unfairly refused to pay a claim on his boiler and central heating insurance policy.

background

Mr F took out a policy with British Gas towards the end of 2017 for a property that he rents out. In early 2018 British Gas arranged a 'first service' to inspect the heating system.

A few months later Mr F called British Gas to claim following a carbon monoxide leak from the flue. British Gas said it wouldn't come out to inspect the system as Mr F wasn't covered. Mr F complained and British Gas agreed to do a second 'first visit'.

British Gas revisited Mr F's property and said the first engineer had found multiple faults on the heating system so the policy wasn't suitable. That meant the policy should have been cancelled if Mr F didn't want to downgrade it to a 'service only' policy. However, the policy wasn't downgraded or cancelled and during the second 'first visit' the second engineer also found multiple faults. For this reason, British Gas cancelled the policy and refunded Mr F's premiums, plus interest.

Mr F remained unhappy and brought his complaint to us. He said he'd got an active policy with British Gas and was still paying the premiums each month. He said British Gas hadn't told him the heating system hadn't passed the inspection or been issued with an alternative type of cover. He said if he'd know this then he would have made changes or taken alternative cover.

Mr F accepted it was unlikely the flue would have been covered as the policy only covered the first metre of the flue. However, he provided an engineer's report to say the water tank was leaking from the seam and would need replacing. Mr F thought this should have been covered. He said he'd ended up replacing the system with a combi boiler instead as British Gas hadn't paid for the water tank. He wanted British Gas to pay £2,088 as this is what it would have cost to replace the water tank. He also asked British Gas to reimburse the £80 he'd paid to call out a different engineer and for the £80 he'd paid to compensate his tenants for the delays in sorting things out.

British Gas said its engineer told the tenants that the heating system had failed the inspection. It said in line with its terms and conditions it was Mr F's responsibility to make sure his tenants passed on the message to him.

I issued a provisional decision on this complaint on 10 October 2019 where I explained what I thought British Gas needed to do to put things right. In that decision I said:

Mr F's policy covers the boiler, controls and central heating. It also includes cover for plumbing, drains, home electrics and an annual inspection. The policy also says that where the heating system fails its first service British Gas will either tell you what needs to be done to fix it offer a different product or cancel the agreement. British Gas said it was sufficient to tell the tenant because the policy's definition of "you" includes tenants.

British Gas said on the first inspection the engineer told the tenant they'd need a different type of policy and on the second inspection it cancelled the policy. However, I don't think that's good enough and I'll now explain why.

I can see from British Gas' call note with Mr F that the policy should have been cancelled, due to the faults that were found at the first visit, if Mr F didn't want a service only policy.

It's unclear exactly what those faults were but I haven't seen anything to show me that the water tank was leaking at that point. British Gas said it would have fed back to the tenants that they would need a different type of policy.

I can see the work note from the visit says "multiple faults on system adv gas app check". But this isn't enough to persuade me of exactly what the engineer said or that the engineer explained to the tenant that Mr F would need to take a different policy instead.

In any event the policy says that only the person named on the statement their spouse, legal partner or authorised contact can make any amendments to the policy. Under the definition of authorised contact it includes any named person who the policyholder's authorised and agreed can act on his behalf. I can't see that Mr F made his tenant an authorised contact And even if the tenant was an authorised contact then it still seems that British Gas made an error in not cancelling the policy when it didn't get a response from Mr F accepting the downgraded policy.

Mr F said if he'd known what the faults were he would have been able to get them fixed or taken out alternative cover. It's unclear from British Gas' notes exactly what the multiple faults were, so it's hard to know if Mr F would have been able to get this fixed, how much that would have cost or if he'd have been able to find a policy elsewhere that would have covered the system. But British Gas has taken away his ability to find this out by not letting him know about the problem. So, I don't think it would produce a fair and reasonable outcome to this complaint if I allowed British Gas to turn down Mr F's claim on the basis that it should have cancelled his policy sooner. As British Gas hadn't cancelled the policy, it was in force at the time of the claim and therefore it's fair and reasonable that it should deal with the claim.

Mr F didn't think the flue would have been covered due to it being over one metre. However he'd like British Gas to cover the claim for the water tank. This seems to be a fair outcome to this and it's what it would have had to pay for if Mr F hadn't replaced the boiler. British Gas hasn't given any other reasons why the claim wouldn't be paid and I now think it would be difficult for it to assess the damage given that Mr F had to replace the heating system.

So I think it's fair and reasonable for British Gas to deal with Mr F's claim for the water tank in line with the remaining terms and conditions of the policy. As Mr F's had his boiler replaced British Gas will be unable to mend or replace the water tank. I'm persuaded by the information Mr F's provided that the water tank needed replacing. And if British Gas had covered this claim Mr F is unlikely to have needed to replace the whole system.

So, I think British Gas should pay Mr F what it would have cost it to replace the water tank. Mr F's provided a quote for £2,088 for this, however I'll consider any submission British Gas would like to make to show how much it would have paid to carry out the same work. As the policy should have been in force British Gas can deduct Mr F's premium from this amount. Due to the time Mr F's been without money he should have had, British Gas should also add interest at a rate of 8% simple per year to any settlement amount from the date of the claim to the date it makes payment.

I accept that this has caused Mr F distress and inconvenience as he's had to sort out and pay for a new boiler as well as deal with the difficulties his tenants experienced as a result of

this. So British Gas should pay Mr F £250 to compensate for this.

Mr F largely accepted my decision but said I hadn't factored in the £80 he'd paid to his tenant as compensation in my award for distress and inconvenience.

British Gas didn't agree and said:

- the engineer had found a dangerous situation with the flue when they visited;
- the engineer had a legal obligation to report this to a responsible person which in this case was the tenant;
- the tenant disposed of this paperwork;
- even if they'd repaired the cylinder the system would still be dangerous as the flue also needed repairing and this would have meant there still wasn't any hot water;
- by replacing the system with a combi boiler Mr F removed all opportunity from them;
- a replacement water tank would cost £291;
- the system should have automatically downgraded the policy but for some reason that doesn't appear to have happened.

I then contacted British Gas and Mr F and said:

It's clear that the policy wasn't downgraded as should have happened. And as it was in force at the time of the claim I still think British Gas should pay it. I've considered British Gas' point that the repair would have cost it £291, but I've also thought about what would produce a fair and reasonable outcome to Mr F's complaint.

What should have happened here is that British Gas paid for the repairs for the water tank. Mr F is aware that the flue would have needed replacing and has also said he'd have covered the cost for this. He's provided me with an invoice to show this would have cost him £698.75. As British Gas turned down his claim Mr F was left with the option of paying a total of £2,787.12 to replace the whole system, so he instead decided to pay a few hundred pounds extra to buy a combi boiler

Far from Mr F taking away British Gas' opportunity by doing this. I think British Gas took away Mr F's opportunity to only pay £698.75 for repairs. Mr F has told us that if British Gas had repaired the water tank he would have paid for the flue and I'm persuaded by what he's said. I can't see that Mr F had any other option but to pay for repairs or to replace the system given that British Gas had turned down his claim. It seems that Mr F should have only paid £698.75 Instead of over £3,000.

I don't intend to tell British Gas to pay the difference between the cost of the repair to the flue (£698.75) and the combi boiler (over £3,000) because Mr F took this option when he could have had the tank and cylinder repaired for slightly less. But I do think British Gas left Mr F with no option but to pay an additional £2,088.37 to repair the water tank. So, I think the fair and reasonable outcome is for British Gas to pay him this amount, as this is the loss he's suffered due to it unfairly turning down his claim. British Gas can deduct the premium from this amount, as it's fair that Mr F pays for the cover

British Gas still hasn't provided me with a copy of any paperwork the engineer provided to the tenant. And I find it strange that a tenant wouldn't let their landlord know if they were told the heating system was dangerous. However, I don't think I need to make a finding on this because ultimately British Gas didn't downgrade the policy as it should have done.

Due to the time Mr F has been without the money British Gas should add interest to the £2,088.37 at a rate of 8% simple per year from the date Mr F paid for the combi boiler to the date it makes payment.

I still think £250 is a fair amount of compensation and this takes into account the £80 Mr F paid to his tenant.

British Gas still didn't agree. It said it hadn't turned down the claim for the water tank and would have undertaken that work if required once the flue had been replaced. It said Mr F had mistakenly believed it had turned down the whole claim rather just the part that wasn't covered by the policy.

my findings

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

I haven't seen anything to persuade me that Mr F mistakenly believed the whole claim had been turned down and British Gas would have covered the claim for the water tank once the flue had been repaired.

I can't see anywhere that British Gas told him it would cover part of his claim if he got the flue repaired. In fact, British Gas said Mr F's policy should have been downgraded to service only, told him there was no cover under the policy when he called to claim and ultimately sent him his premium back. So, that gave him the impression that there was no cover under the policy. I can also see from emails Mr F sent to British Gas that he said he would have paid for the flue. But British Gas doesn't seem to have told him it would have covered the water tank or to have given him that option at any point.

I remain satisfied that Mr F thought he had no option but to pay an additional £2,088.37. I don't think he should have had to pay this as he had a policy in force and British Gas should have covered his claim for the water tank. To put Mr F back in the position he should have been in, the fair and reasonable outcome is for British Gas to pay Mr F £2,088.37, plus interest at 8% simple per year from the date he paid for the new boiler to the date it makes payment. It can deduct any premium from this amount. It should also pay him £250 compensation for his distress and inconvenience.

my final decision

My final decision is that I uphold this complaint and require British Gas Insurance Limited to:

- pay Mr F £2,088.37 towards his new boiler;
- add interest at 8% simple per year from the date Mr F paid for the new boiler to the date it makes payment¹;
- deduct his premium from that amount if it chooses;
- pay Mr F £250 compensation for his distress and inconvenience.

It should do this within 28 days of us telling it Mr F's accepted my final decision. If it pays later than this, it should add interest to the compensation at a rate of 8% simple per year from the date of my decision to the date it makes payment.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 18 December 2019.

Sarann Taylor
ombudsman

¹ If British Gas considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Mr F how much it's taken off. It should also give Mr F a certificate showing this if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.