

## **complaint**

Mr W has complained about the way Great Lakes Insurance SE (Great Lakes) dealt with a claim on his home emergency insurance policy.

All references to Great Lakes include its agents.

## **background**

I issued a provisional decision on this complaint earlier this month and I copied an extract from it below:

*“Mr W had a home emergency policy with Great Lakes as part of his agreement with his energy provider.*

*He made a claim to Great Lakes after his boiler stopped working. An engineer attended and said the problem was electrical. Great Lakes says that the boiler was also unsafe as the front cover was missing. Mr W said he wasn't told this at the time and only found out when Great Lakes called him later and refused to cover the claim. He also said that whilst at his house the engineer had asked for a quote for a part the engineer suggested fitting to the boiler.*

*Great Lakes later called Mr W and said it wouldn't provide insurance cover as the boiler hadn't been maintained properly and this breached the terms of the policy. It also said the front cover is missing and this is against manufacturer's specifications.*

*Mr W didn't agree. He said he had a home emergency policy immediately prior to this one and his old provider (B) was regularly servicing the boiler without any issues.*

*In the meantime Mr W went back to B and asked it to look at the boiler. B said the issue was that the gas supply had been turned off and so the problem wasn't electric. It said once Mr W replaced the boiler cover it would carry out the necessary repairs. Mr W replaced the cover and the boiler was repaired. Mr W paid B a call out fee and also took out a new policy with it.*

*Mr W complained to Great Lakes. He said it had:*

- *Misdiagnosed the problem. He said B told him a basic check should've involved checking the gas supply. But Great Lakes didn't check this and said it was a problem with the mother board which wasn't the case.*
- *Though B also said the boiler was at risk it said it was still allowed to run and wasn't considered to be immediately dangerous.*
- *He was left without hot water for three days because of Great Lakes' mistakes.*
- *He had to pay a call out fee to B and had also since taken out a new policy with it.*

*Great Lakes paid Mr W £50 compensation for poor service; which is what he'd paid for his policy excess; but otherwise didn't uphold the complaint. It agreed it had misdiagnosed the problem but said it was very unusual for the gas supply to be turned off and for this to be the reason for a broken boiler. It also said it had asked for the boiler's service history but Mr W had failed to provide it. It said it thinks it's unlikely B was servicing this boiler without it having a cover. And that having no cover was against manufacturer's standards. So it didn't think Mr W had been regularly maintaining and servicing his boiler as required by the policy.*

*Mr W said the policy with B was in his ex-partner's name and it would be difficult to obtain the information Great Lakes had asked for. He was still unhappy with Great Lakes and complained to us. He wanted a refund of all his payments to B and compensation for the distress and inconvenience Great Lakes caused him.*

*Our investigator thought the complaint should be upheld in part. He thought Great Lakes should reimburse Mr W's call out fee to B because this could've been avoided had the engineer diagnosed the problem correctly. He also thought it should pay Mr W £100 for the distress and inconvenience it caused him. He didn't think Great Lakes should pay for Mr W's new policy premium with B because he is having the benefit of that policy. He also didn't think the boiler cover costs should be reimbursed as this wouldn't have been covered under the policy in any event.*

*Mr W agreed with our investigator's view.*

*Great Lakes didn't agree. Its arguments included the following:*

- The boiler was dangerous and could've emitted dangerous gasses.*
- B agreed the boiler was at risk.*
- If B had been servicing this boiler regularly it would've realised there was a problem with the boiler sooner.*
- Great Lakes thinks it's very unlikely the gas supply was turned off by accident.*
- Mr W breached the terms of his policy by not maintaining the boiler. And he failed to provide evidence B had been servicing the boiler as he said.*
- The boiler wasn't made unsafe by the gas supply being turned off.*

*Our investigator responded with the following:*

- The missing cover wouldn't have prevented the engineer from noticing the gas supply had been turned off.*
- Mr W didn't know the gas supply was off so he didn't know the boiler wasn't dangerous.*
- Mr W replaced the cover. There's no reason why he wouldn't have done this earlier if he'd known it was a problem.*
- Why would Mr W take out a policy with B again if he thought it wouldn't cover his boiler?*
- There were five months between the start of the policy and the claim. It's unlikely Mr W had no working boiler over that whole period.*

*Great Lakes didn't agree for broadly the same reasons as it did before and asked for an ombudsman's decision.*

*Before going ahead with my decision we asked Great Lakes if it has copies of Mr W's bank statements which Mr W said would show payments to B. It said it couldn't find any on its system but it didn't think this would've been proof of Mr W having a previous policy with B in any event. It said B provides a number of other services and the payments could've been towards those services.*

*In the meantime Mr W provided us with details of his new policy with B and an email from it saying he'd been charged a £99 call out fee. The email from B also said Mr W had knocked off the gas supply accidentally and that B fitted a new cover on the boiler.*

### **my provisional findings**

*I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I've decided to uphold it in part.*

*Both parties raised a number of points in the evidence they provided and in their correspondence with us. But for the purposes of this decision I will focus on what I consider to be the parties' main points.*

*The policy broadly covers boiler failure and pays for up to three claims in any period of insurance and up to £500 per claim. The policy also includes a requirement for the boiler to be regularly maintained and kept in a good condition. There is also a £50 excess payment per claim.*

*Great Lakes accepts that its engineer misdiagnosed the problem with Mr W's boiler. But it says the boiler was unsafe because the front cover was missing. It says this shows that the boiler wasn't maintained properly or in line with manufacturer's standards, which means Mr W was breaching his policy. So, even without the misdiagnosis, it wouldn't have repaired the boiler.*

*Mr W accepts that the front cover was missing. I can also see that B insisted on the front cover being replaced, which I think suggests that B also thought the boiler was at risk without the cover. Also, Mr W hasn't been able to provide the boiler's service history though he says the boiler was serviced regularly. So I can see why Great Lakes might have some concerns about how well maintained the boiler was.*

*I haven't seen any evidence either way, but even if I were to accept that the boiler hadn't been properly maintained, this still doesn't mean Great Lakes was necessarily acting fairly and reasonably when it refused to deal with the claim. So, the issue for me to decide is whether Great Lakes acted fairly in rejecting Mr W's claim because he was in breach of a policy condition requiring him to maintain his boiler and keep it in good condition.*

*ICOBS (Insurance: Conduct of Business) is a sourcebook of rules and guidelines that applies to Great Lakes when, among other things, effecting and carrying out contracts of insurance and activities connected with these. ICOBS 8 sets out the rules around claims handling and this includes a rule that an insurer must handle claims promptly and fairly and not unreasonably reject a claim. This part of ICOBS also says that rejecting a consumer policyholder's claim is unreasonable if it is for a breach of condition unless the circumstances of the claim are connected to the breach.*

*From what I've seen I don't think; and my understanding is that Great Lakes doesn't itself claim; that the fact that the cover was missing or the alleged lack of maintenance were the reasons why the boiler stopped working. From what B and Great Lakes said the reason the boiler stopped working was purely in relation to the gas supply. It follows that I don't think that the alleged lack of maintenance or the absence of a boiler cover were related to Mr W's claim. So I don't think Great Lakes was acting fairly or reasonably when it refused to do further work on Mr W's boiler.*

*I also think it would've been reasonable for Great Lakes to advise Mr W to replace the front cover, just like B seemed to do, and then carry out the necessary work. Under ICOBS 8 Great Lakes is also obliged to provide reasonable guidance to help a policyholder make a*

*claim. I've seen that Mr W replaced the cover without delay when B told him to do so, so on balance; I think he would've done the same thing had Great Lakes advised him to do this too.*

*For these reasons, I think Great Lakes should pay the £99 call-out fee Mr W paid B. Had Great Lakes acted fairly and reasonably it would've asked Mr W to replace the cover which I think he would've done without delay. And if it had diagnosed the problem correctly it would've got the boiler working again without Mr W having to call B out.*

*It follows that I also think Great Lakes' actions put Mr W through the unnecessary inconvenience of having to call B out to repair the boiler- when he already had cover with Great Lakes. Also as a result of the misdiagnosis Mr W says he was left without hot water for three days. For these reasons I think it should pay him £150 compensation.*

*Great Lakes said it is very unlikely that the gas supply was turned off accidentally, which is what Mr W maintains. I've seen no evidence to suggest that Mr W turned off the gas supply intentionally. And I find it very unlikely that he would, bearing in mind he had nothing to gain from this- as far as I can see.*

*Mr W said he wants Great Lakes to reimburse him for the premium he's paying to B. I'm not going to ask Great Lakes to do that. I think it was Mr W's decision to take out a new policy with B after his boiler was repaired. And, from what I can tell, B's policy provides more cover compared to his Great Lakes' policy; such as drains and electrics cover; and for that reason I don't think it was a like for like replacement. I also understand that Mr W's Great Lakes policy was not cancelled and also that it was provided for free.*

### **my provisional decision**

*For the reasons above I am considering upholding Mr W's complaint against Great Lakes Insurance SE and requiring it to do the following:*

- *Reimburse the £99 call-out fee Mr W paid to B plus 8% simple interest per year from the date Mr W made this payment to the date it pays him back.*
- *Pay Mr W £150 for the distress and inconvenience it caused him."*

### **developments**

Mr W confirmed that he accepts my provisional decision. Great Lakes didn't accept it. It made a number of points including the following:

- It still believes the boiler was isolated by another engineer due to lack of maintenance.
- The relevant regulations say that an engineer may turn off the gas supply if a boiler is deemed to be "at risk".
- The gas supply tap cannot be knocked into the on or off position easily. It wouldn't be possible to turn the gas tap off fully by knocking the bin onto it.
- Mr W is yet to provide any servicing documents to show the boiler was being serviced regularly. The complaint has been going on for a year.
- The compensation I awarded isn't fair and reasonable as Mr W was going to be without heating or hot water while waiting for replacement parts.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I've decided not to change the findings I made in my provisional decision.

Great Lakes hasn't really raised any new arguments in response to my provisional decision. I have already addressed the issue of the alleged lack of maintenance and the non-provision of servicing documents in that decision.

I note Great Lakes insists that another engineer must've turned the gas supply off because the boiler was at risk and because it's difficult to turn the gas supply off by accident. If Great Lakes believes the reason the boiler was at risk was because of the missing cover, it could've asked Mr W to replace it, as B did, and then carry out the work. Also as I said in my provisional decision, B was able to get the boiler up and running by turning the gas supply on. I think B's unlikely to have done this if it felt it was dangerous to do so and that another engineer turned the gas supply off for safety reasons (other than to do with the missing cover).

Great Lakes doesn't agree with the compensation I awarded because it says Mr W would've been without hot water and heating for a few days in any event while it was waiting for parts to arrive. But, the boiler was repaired by turning the gas supply on. And, as I said in my provisional decision Mr W replaced the boiler cover as soon as he was advised to do so by B. If Great Lakes had asked him to do so I think he would've acted with the same speed. So I still think Great Lakes' misdiagnosis of the issue with the boiler led to avoidable delay in it being repaired. And I think this caused Mr W distress and inconvenience.

## **my final decision**

For the reasons above I am upholding Mr W's complaint against Great Lakes Insurance SE and requiring it to do the following:

- Reimburse the £99 call-out fee Mr W paid to B plus 8% simple interest\* per year from the date Mr W made this payment to the date it pays him back.
- Pay Mr W £150 compensation for the distress and inconvenience it caused him.

Great Lakes Insurance SE must pay the above within 28 days of the date on which we tell it Mr W accepts my final decision. If it pays later than this it must also pay interest on the compensation from the date of my final decision to the date of payment at 8% a year simple\*.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 27 July 2019.

Anastasia Serdari  
**ombudsman**

\* If Great Lakes Insurance SE considers that it's required by HM Revenue & Customs to withhold income tax from that interest, it should tell Mr W how much it's taken off. It should also give Mr W a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.