

complaint

Mrs B complains about British Gas Insurance Limited's handling of her insurance claim relating to a fault with her boiler.

background

I issued my provisional decision on this matter in January 2014, an extract from which is copied below and forms part of this, my final decision.

"Mrs B holds a HomeCare Cover insurance policy, underwritten by British Gas.

In January 2012, Mrs B contacted British Gas to register a claim under her policy. An engineer attended on the same day and said that her boiler was 'at risk'. The engineer drained down the boiler and said that a replacement heat exchanger was required.

However, British Gas told Mrs B that this could not be carried out under the policy but that she would need to pay for this work herself (quoting a price of almost £1,000). British Gas says that the terms and conditions of Mrs B's policy exclude cover for repairs to damage caused by sludge, where British Gas has previously advised that a powerflush is required. It says that she was previously advised to have a powerflush and, as she had not had this carried out, British Gas would not replace the heat exchanger under the policy.

Mrs B subsequently paid for her boiler to be replaced privately and, as she remained dissatisfied, brought her complaint to the attention of this service for consideration.

Our adjudicator did not initially recommend that Mrs B's complaint should be upheld, as British Gas' records seemed to indicate that Mrs B had been told that a powerflush was required. However, Mrs B said she had no recollection of being informed by any of British Gas' engineers that a powerflush was necessary and has provided a report from a private engineer which states;

"powerflushing is not required whereas a magnabooster would be an asset".

Having considered this new evidence, our adjudicator recommended that British Gas should pay Mrs B the amount it would have cost it to replace the heat exchanger, together with a payment of £150 compensation for the distress and inconvenience caused to Mrs B. British Gas accepted our adjudicator's recommendations and said it would have cost it £100.76 to carry out a repair on the boiler.

Mrs B disputes this cost of £100.76, given that the quotation for repairs provided to her by British Gas in January 2012 for the same work totalled £814.70 plus VAT. She has asked that she receive the amount that British Gas quoted her for the work.

As our adjudicator was unable to resolve the complaint to the satisfaction of both parties, the matter has now been referred to me to review afresh.

my provisional findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having looked closely at the evidence,

I am considering departing from the conclusions reached by the adjudicator and will explain my reasons below.

Home emergency insurance policies such as this do not provide cover for every eventuality and are not intended to operate as maintenance contracts. As such, the level of cover provided is limited by the terms, conditions and exclusions set out in the policy.

In particular, Mrs B's policy excludes;

"Removing sludge or hard-water scale from your system or appliance".

As such, if a policyholder's central heating system requires a powerflush, magnaclean or similar procedure, British Gas would not cover the cost of this.

The policy goes further and also excludes;

"Repairing damage caused by scale, sludge or other debris if we have told you on a previous visit that permanent repairs, improvements or a powerflush (or a similar cleaning procedure) are needed to help ensure your appliance/system works properly".

Therefore, if Mrs B had been informed previously that her central heating system required a powerflush and this had not been carried out, British Gas would not provide cover for subsequent repairs caused by sludge damage.

British Gas says Mrs B was told in the past – in particular in November 2011 - that a powerflush procedure was necessary – and its notes support this. It also seems to imply that the heat exchanger was damaged by sludge.

However, Mrs B says this diagnosis was not communicated to her. In support of this, Mrs B has provided a job sheet from the November 2011 attendance, which does not mention a powerflush and indeed states that no system improvements were recommended. I have also considered the various other job sheets which Mrs B has provided to us from attendances in January 2012, April 2011, May 2010 and March 2010 – again, none of which refer to a powerflush being recommended. There is a checklist for the engineer to complete to record if any 'system improvements' were recommended and why, on each of these job sheets. The engineer has ticked the 'no' box – that no system improvements were recommended – on every one. .

If British Gas is seeking to rely on the above exclusion for any damage caused by sludge, then it is required to establish, on the balance of probabilities, that the exclusion applies. In this case therefore it has to establish that Mrs B was told previously that she needed to have a powerflush done and that the damage to the heat exchanger was caused by sludge (which would otherwise have been removed by the powerflush).

Based on the content of the job sheets provided by Mrs B, I am not satisfied that British Gas informed her that her system needed to be powerflushed. In addition, Mrs B's engineer reported that the water he drained from the system was "uncontaminated and sludge free ...powerflushing is not required whereas a magnaboost would be an asset".

Given this it seems to me that British Gas has not established that the heat exchanger was damaged by sludge or that it had previously informed Mrs B of sludge in her heating system and that she should have a powerflush done to remove this. It therefore follows that I do not consider that the exclusion does not apply.

Therefore, I consider British Gas did not act fairly or reasonably by not repairing the boiler in January 2012 and instead seeking to charge her privately for this work. This was, in my view, work which ought reasonably to have been carried out under the terms and conditions of Mrs B's insurance policy.

Turning to the remedy which I consider appropriate in the circumstances, I understand Mrs B opted to have her boiler replaced, based on the recommendations of her private engineer, who thought it was uneconomical to replace the heat exchanger in the long run.

British Gas' records indicate that Mrs B's boiler was approximately 14 years old at the time of the claim and, therefore, British Gas would not have been obliged to replace Mrs B's boiler under the terms and conditions of the policy. As such, I am unable to recommend that British Gas should reimburse Mrs B for the cost of her replacement boiler.

Instead, I consider the fair and reasonable outcome in this case would be for British Gas to pay what it would have paid to replace the heat exchanger; the work which it ought to have carried out under the terms and conditions of the policy.

I understand British Gas says this work would have cost it £100.76. British Gas has provided evidence that this is what it would have paid to its engineer for both parts and labour to replace the heat exchanger under the terms and conditions of the policy.

I can understand Mrs B's concern that she was quoted £814.70 plus VAT for the same work on a chargeable basis. However, this is what British Gas New Heating Limited, a separate arm of British Gas, would charge private customers for this work. There is of course an element of profit in such work. British Gas Insurance however is able to have work carried out much more cheaply due to economies of scale and so on.

I am therefore not persuaded that British Gas should pay Mrs B the amount that it quoted her for the work to be carried out privately. It should pay the sum of £100.76 together with interest at our usual rate.

However, there were other consequences of British Gas failing to respond to Mrs B's insurance claim properly. As a result of its refusal to repair the boiler at the start of January 2012 under her policy, she was without heating and hot water for considerably longer than would otherwise have been the case. I understand that she was able to have the new boiler installed approximately a month after the original breakdown. This occurred during a particularly cold period and I understand that Mrs B has two young children who were also affected.

I have no doubt that this would have caused significant distress and inconvenience. I therefore agree with the adjudicator that an additional payment of compensation is warranted. However, in my opinion it should be more than she initially recommended. It seems to me that the sum of £500 would be appropriate taking into consideration all the circumstances of this case. This is in line with other awards of compensation made for similar cases of 'significant' distress and inconvenience.

my provisional decision

My provisional decision is that I am minded to uphold this complaint and recommend that British Gas Insurance Limited do the following;

- *pay Mrs B £100.76 together with interest at 8% simple per annum from the date of the original claim to the date of reimbursement; and.*
- *pay Mrs B £500 compensation for the distress and inconvenience caused by its handling of her claim."*

developments

I invited both parties to respond and provide any further evidence or information that they wished to have considered.

Mrs B responded and whilst she is happy that I have upheld her complaint and feels that the complaint has been dealt with thoroughly, she does not feel that the amount awarded properly reflects the "expenditure and distress" suffered by her and her family, including travel costs, alternative accommodation, arrangements for personal hygiene and disruption to her employer. In addition, she considers that if she had not taken the expensive decision to pay for a new boiler herself, this inconvenience would have been extended.

Mrs B has therefore asked that the compensation be reviewed.

my findings

Mrs B has confirmed that she did not pay for alternative accommodation but visited family approximately four miles from her home, during the relevant time. She has also said that she did not lose any earnings as a direct result of the problems with her boiler.

Mrs B and her family were without heating and hot water during very cold weather for approximately a month as a direct result of British Gas' error. She, quite understandably, chose to alleviate the situation by visiting family during that time, presumably to use their washing facilities. I do accept that this would have been inconvenient.

However, I already concluded that Mrs B had suffered *significant* distress and inconvenience as a direct result of British Gas' error. That is why I was minded to award the sum of £500 which is in line with awards made in similar cases. In my opinion, this amount also reflects the fact that Mrs B travelled to family, relatively nearby, during this time. I am not therefore persuaded to change the amount I proposed to award in compensation.

I am also mindful of the fact that Mrs B brought the situation to an end by replacing the boiler. However, I can only address the actual events and cannot award compensation for distress or inconvenience that may have occurred had she not done so. Also it appears that the boiler was repairable but Mrs B's own engineer advised her to have it replaced instead. While this was undoubtedly more expensive, I cannot attribute this to British Gas.

Neither party has made any further representations about any other aspect of my provisional decision. Therefore, for the reasons given, I do not intend to change my provisional findings.

my final decision

For the reasons set out above and in my provisional decision, I uphold this complaint and order British Gas Insurance Limited to:

- pay Mrs B £100.76 together with interest at 8% simple per annum from the date of the original claim to the date of reimbursement; and.
- pay Mrs B £500 compensation for the distress and inconvenience caused by its handling of her claim.

Harriet McCarthy
ombudsman