

complaint

Mr and Mrs W complain Nws 3 LLP (Nws) misrepresented a boiler package that it sold them under a conditional sale agreement. They also complain the boiler wasn't installed properly.

background

Mr and Mrs W entered into the agreement on 24 February 2014. They say Nws advertised the boiler as being free, with a 10-year warranty, labour and repair costs covered. In 2015, they had problems with the boiler and contacted Nws. They were told it ceased trading and their agreement didn't include maintenance. They say Nws misled them. They say the boiler wasn't installed properly and a power flush wasn't done. They also say Nws didn't fit a magnetic filter. They paid to have the problems fixed and want to be reimbursed.

A new company ("C") has taken over from Nws. But, it says it's not responsible for Nws' contracts. It says the agreement was for the boiler, installation and a 10-year manufacturer's warranty. It agreed there were some installation problems, which it says it fixed as a gesture of goodwill. It says Mr and Mrs W's agreement didn't include a magnetic filter. It inspected the boiler and is satisfied it's in working order. It closed the complaint.

Mr and Mrs W say Nws should be accountable for misleading them.

my provisional decision

I issued a provisional decision on this complaint. I said, in summary:

- Nws supplied the boiler and provided finance to Mr and Mrs W. I had to consider whether it misrepresented the agreement or breached the contract. The agreement was between Mr and Mrs W and Nws – not C.
- Mr and Mrs W thought they were paying for a maintenance package, not the boiler. They say they wouldn't have agreed otherwise. They strongly felt the salesman misled them. But, I was satisfied the agreement didn't include a maintenance package. And, the box for a magnetic filter wasn't ticked – so I was clear this wasn't included. I didn't think the agreement was misrepresented.
- For me to say Nws should reimburse Mr and Mrs W, I had to be satisfied the problems happened because it breached its contract by poorly installing the boiler.
- Mr and Mrs W paid their own engineer to fix the problems. He provided a detailed report and invoice for the work. He said the problems were due to poor installation. He also said the heating system hadn't been correctly flushed out when the boiler was fitted. C disputed this. It said the system was flushed when fitted.
- I noted Mr and Mrs W's engineer needed to fix pipework and wiring, as well as replacing parts. Given the number of problems identified, and the fact that these weren't faults with the boiler itself, I was persuaded these were all installation issues.
- I was satisfied Mr and Mrs W wouldn't have had to pay £547.04 to repair the boiler if Nws had fitted it properly. I said it should reimburse them and pay £100 compensation for the inconvenience, which included interest on the repair costs.

Mr and Mrs W didn't have anything to add after receiving my provisional decision.

C replied on behalf of Nws. It highlighted Nws didn't fit a magnetic filter as Mr and Mrs W hadn't requested this at the time of installation. It said it's more likely this was the root of the problems. C says the radiators and boiler were working properly. It accepts there was an issue with the hot water temperature. It said although the heat exchanger was blocked, it didn't think it needed to be replaced. Overall, C says the installation can't be called into question. It says it was the filter that was the root cause – which wasn't Nws' fault.

C also commented on the engineer's invoice which it said didn't show he'd charged for a power flush. It thought the costs set out for chemicals and the filter were high.

C says the loose wires that had to be disconnected were for an old immersion heater. It says this wasn't to do with Nws as Mr and Mrs W had a wireless thermostat. It feels my provisional decision unfairly penalises Nws for work it didn't carry out.

my findings

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

I'm grateful to C for taking the time to respond to my decision. C acknowledges that most of the information it's given in response has been shared with this service previously. I'm aware it continues to remain of the view that the problems weren't due to Nws' installation.

C says it feels I'm unfairly penalising Nws for work it didn't carry out. But, I've carefully considered the invoice I'm telling Nws to reimburse. And, I'm satisfied this only includes the necessary work as a result of the installation issues the engineer says he had to put right.

C talks at length about the problems with Mr and Mrs W's existing filter, which was old. And, it says this is "more likely" to have been the cause of the problems. But, it hasn't provided anything new to persuade me this was the case. And, as I said in my provisional decision, I've seen a detailed engineer's report that outlines a number of problems. The report clearly states that these were due to incorrect fitting of the boiler. I previously said I was satisfied the report is independent and I accept the engineer's findings. I remain of that view.

I also still think Mr and Mrs W were inconvenienced by repeated engineer's visits over time. I feel this is directly because of Nws' failings. So, I require Nws to pay £100 to reflect the inconvenience caused, as well as interest on the repair costs.

my final decision

My final decision is I uphold this complaint.

I order Nws 3 LLP to pay Mr and Mrs W:

1. £547.04 for their repair costs and;
2. £100 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs W to accept or reject my decision before 20 June 2016.

Loucia Kyprianou
ombudsman