

complaint

Mr H is unhappy with the service provided by Ageas Insurance Limited in relation to his home emergency home insurance.

background

I issued a provisional decision on this matter in November 2017, part of which is copied below:

“Mr H made a claim under his policy in October 2015 because his heating was constantly running and he was having to control it via the radiator valves. I also understand there were problems with the hot water supply.

The engineer that attended diagnosed that the diverter valve in the boiler was faulty. He carried out a repair of the valve. Mr H says he “cobbled together a ‘repair’ that didn’t last”; the valve should instead have been replaced and the failure to do so at the time has caused him continuing problems with his heating and hot water supply.

Mr H says he continued to experience the same problems with the heating and hot water not working properly. The hot water or the heating would be supplied but apparently not both. The heating would stay full on – despite turning the thermostat down – or there’d be no heat in the radiators; or no hot water and the pump in the boiler would be ‘screaming’. Both the boiler pump and the shower pump failed (twice) within a short space of time because of the additional stress they were put under by the faulty diverter valve.

Mr H made a complaint to the broker that sold him the policy, as he said it hadn’t provided the cover he had wanted. The broker upheld the complaint and agreed that Mr H hadn’t been provided with sufficient information about the policy, before he agreed to take it out.

The broker also spoke to Ageas to get it to deal with the claim. Ageas attended Mr H’s property a few times in early 2016. It agreed to look at the shower but said the shower pump isn’t covered by the policy and it couldn’t find any other problem. It also said the heating and hot water was working properly at that stage and so doesn’t accept the problems with the shower pump are related to that.

In June 2016, an engineer came out again and reconnected some loose wiring which was causing the internal thermostat to not work and meant the water wasn’t heating up properly. He also tightened some radiator valves that were leaking and unblocked the cold feed to the boiler. He said the shower problem wasn’t related to any of these.

Ageas said it could not provide any further assistance and it has provided more than the policy would normally provide.

In response to Mr H’s complaint about the service provided, Ageas said:

- *the shower pump is separate and not covered but they agreed to look at it on an 'ex gratia' basis. No fault was found and so it was deemed to be wear and tear.*
- *There was no problem with the supply of hot water to other parts of the house, only the shower and so that has to be a fault with the shower pump/mechanism separate from the boiler system.*
- *The shower pump had apparently failed several times over the previous few years and there's no evidence why but it could be the size of the pipework or the pressure from the pump being too high.*
- *In January 2016, it came out and the boiler and heating was working properly but the shower was making a lot of noise. This was not attributable to the heating system, the shower pump is separate.*
- *And as the problem was now intermittent it wasn't a home emergency any longer as that would require the total failure of either the heating or hot water. The diverter valve was repaired in October 2015 and this was not a temporary repair.*
- *The boiler was 16 years old at the time and so any faults that needed a new part would be considered carefully. The engineer recorded that if the diverter valve needed to be replaced, it would mean the boiler was beyond economic repair.*
- *The broker agreed to repair the boiler as part of the complaint resolution and this was effectively as a good will gesture.*
- *Its engineers attended five times and against their judgement replaced the radiator valves, the diverter valve head and the thermostat even though the engineer said they weren't faulty when he arrived and were not leaking.*

Mr H is unhappy with Ageas's response. He says the continued use of the boiler without fixing this properly has caused more damage, including three radiator valves that started to leak (staining the carpet around at least one of them); and it caused strain on the shower pump and boiler pump causing them to have to be replaced more than once.

Mr H has made a number of submissions including the following:

- *The broker confirmed to him that the claim would be dealt with and it was dealt with as a normal claim for around six months. There was no mention that it was a 'gesture of goodwill' or 'ex gratia'. It was only when they still hadn't fixed the problem did Ageas say it was an ex gratia agreement and that there was no emergency*
- *Another engineer came out in May 2017 and replaced the diverter valve (which was stuck in the open position) and pump and everything worked fine. Ageas should have done this at the outset and all his additional stress and costs could have been avoided.*
- *The shower is supplied by the water stored in the hot water tank, which is heated by the boiler. It is therefore all part of the same system. The problem was incorrect water pressure and water being diverted to the wrong place, or not at all, and this was causing strain and pressure in the pump and frequent airlocks.*
- *It only became an intermittent problem after the first engineer botched the initial repair – and failed to replace the diverter valve – sometimes it worked and sometimes it didn't.*
- *He was told him over the phone on 28 January 2016, it would replace the diverter valve and pump but this was never done.*
- *The definition of an 'emergency' is open to interpretation, which isn't fair for consumers. Because he had some hot water, the claims line was always reluctant to send anyone out. In any event, he was told that the circumstances of his claim did constitute an emergency.*

- *In any event the policy terms aren't relevant, as he was never aware of them; and the issues with the pump are a result of the failure to properly fix the problem in October 2015.*
- *Ageas said it wasn't "concerned about the cost of a new pump" but it hasn't paid for this and now apparently dispute that they previously agreed to this.*
- *He was told it would fix the "faulty thermostat" and radiator valves and Ageas told him that "the engineer has been allocated to you for the whole day... to carry out work and a thorough diagnostic". In fact, that engineer himself had only allocated until midday. Furthermore, he came without any parts and proceeded to try to tell Mr H's wife that none of these things needed replacing.*
- *The engineers are only authorised to diagnose and then have to phone for authority to actually do any repairs and they were always looking to cut corners, even if that meant not repairing the boiler properly.*

Essentially, Mr H asks that if the diverter valve had truly been repaired in October 2015, why did the problems persist and why did his engineer that came out in May 2017 replace the diverter valve? Mr H has asked for compensation for the additional electricity and gas bills he's had to pay because his system hasn't been working properly; the cost of the pumps; and compensation for the distress and inconvenience this matter has caused him.

One of our adjudicators looked into the case. He concluded that it shouldn't be upheld, as he thought the shower pump was a separate matter and not run from the boiler. The adjudicator said it hadn't been established why the shower pumps failed but the shower pumps are not covered. The adjudicator also said it seemed the boiler repairs had been completed in line with the policy and Ageas had provided evidence it was working properly when it closed the claim.

Mr H doesn't accept the adjudicator's assessment and says he has "missed the point, misinterpreted or been misinformed in many areas"; he has accepted alleged facts that Ageas has told him without either getting Mr H's take on these, or any critical analysis.

Mr H says the definition of 'emergency' can't be relied on as it has been accepted that the policy was mis-sold and it would therefore deal with the claim. It cannot start this process and then change its mind. Moreover, it was previously stated his circumstances would amount to an emergency anyway. The engineer he employed in May 2017, attended once and fixed the issue – "doing exactly what was identified right at the outset... but which was never fixed by the representatives of Ageas."

As the adjudicator was unable to resolve the matter, it has been passed to me.

my findings

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

Mr H's policy provides cover for certain home emergencies. In line with other similar policies it defines an 'Emergency' as being:

"a sudden and unexpected event which, if not dealt with quickly would in the reasonable opinion of the helpline:

a) render the home unsafe or insecure: or

- b) damage or cause further damage to the home: or*
- c) cause personal risk to you: or*
- d) cause a health and safety risk to others”.*

It is generally accepted that being without heating or hot water, or both, would amount to an emergency in this context. Whether a fault which causes intermittent loss of hot water and heating will be deemed to be an emergency will be a matter of degree. Mr H says it was so regularly an issue that it might be considered to be the same as a total loss of function. However, it seems to me that this may not be the deciding factor in this case and I'll explain why.

It seems to be accepted the initial call out was deemed to be an 'emergency' and was met under the policy. The job note from 2 October 2015 says: "Engineer advised actuator head required changing as port valve is currently gone and letting water pass. Part fitted tested all working correctly, engineer has advised if fault reoccurs whole actuator may require replacements”.

The problems did persist and after some considerable time the diverter valve was replaced by Mr H's own engineer. This apparently has provided a permanent repair and Mr H hasn't had any problems since.

It seems to me therefore that the initial work wasn't enough to repair the problem properly and therefore even if the loss of heating and hot water was only intermittent after that, it is part of the initial fault and repair and therefore Ageas should have returned to complete that job - doing what its first engineer said was needed, and what was finally done some time later.

Ageas has said that if any other work was required, the boiler would have been 'beyond economic repair' but no evidence has been provided to substantiate that. The boiler is relatively old but it doesn't automatically follow that it will be beyond economic repair.

Therefore I consider that Ageas should reimburse the amount Mr H paid his own engineer to replace the diverter valve. Although I've seen confirmation he did this work, I've not seen an invoice. Ageas will be entitled to proof of the amount Mr H paid for this, before making any payment to him. It should also add interest at our usual rate.

The notes from Mr H's engineer also say he replaced the pump. It isn't clear whether this was the shower pump or boiler pump. If it was the boiler pump, then I consider this cost should also be reimbursed, again with interest added, as it was part of the repair of the boiler required to make it work properly again. I don't consider that Ageas has proved this would have been normal maintenance of the boiler.

However, if it was the shower pump that was replaced, then I don't agree that it would have been covered by the policy and don't therefore require Ageas to reimburse the cost of that, or any other previous replacement of the shower pump.

The policy provides cover for the boiler and central heating system, as follows:

*“Emergency Boiler breakdown cover
Repairing or rectifying the boiler controls, inc. thermostat the boilers fitted components inc. boiler valves and pumps...*

*Domestic central heating system cover
Repairs or replacement of the radiator valves
Fitted components where there is a malfunction and electrical or mechanical
breakdown occurs
Repairs to your expansion tank, pipework, feed and primary fluing that are fitted as
part of your gas central heating system”.*

Domestic Boiler is defined as being:

*“the central heating boiler contained within and supplying your home that is powered
by natural gas from the appliance isolating valve, including all manufactures fitted
components with the boiler together with the pump, motorised valves, thermostat,
time, temperature and pressure controls.”*

And Domestic Central Heating System is defined as:

*“the domestic boiler and the central heating system within your home that is powered
by natural gas from the appliance isolating valve, including all manufacturer's fitted
components within the domestic boiler together with the pump, motorised valves,
cylinder thermostat, time, temperature and pressure controls, radiator valves, pipe
work, feed and expansion tank and primary fluing. “*

*The above sections of the policy make it clear that a boiler pump will be covered and other
heating pipework and tanks but not a shower pump. It may be connected to the rest of the
system but that doesn't mean it is automatically covered.*

*Mr H says the policy terms are irrelevant anyway for two reasons: that the shower pump was
damaged due to the ongoing fault with the boiler; and because the policy was mis-sold. As
the policy wasn't sold by Ageas, I can only consider whether the terms are clear and it is
entitled to rely on them. I think they are sufficiently clear and I do therefore consider Ageas is
entitled to rely on them. And there isn't sufficient evidence for me to accept that the shower
pump only needed replacing due to Ageas not replacing the diverter valve in October 2015.*

*I do also consider that some additional compensation is warranted for the time Ageas dealt
with this matter and failing to carry out the repairs its own engineer said were needed. I can
see this dragged on for some time and would have caused inconvenience and distress. I
consider the sum of £300 to be appropriate.*

*Finally, I note that the broker has cancelled the policy and refunded the premium Mr H paid.
As has already been mentioned to Mr H, this would normally mean the policy is treated as
having been voided – ie cancelled from the start, as if it was never taken out. This would
normally mean that no claims could be honoured under the policy either. But this offered by
the broker and not by Ageas, as far as I can tell.*

*However, if Ageas has repaid any part of the premium to the broker, it would be entitled to
offset that against the award I propose to make in Mr H's favour; he can't have the cover
under the policy, without paying the premium.*

my provisional decision

I intend to uphold this complaint against Ageas Insurance Limited in part and require it to:

- *reimburse the cost of the repairs to the boiler he had carried out in May 2017, together with interest at 8% simple per annum, from the date he paid for the repairs to the date of reimbursement; and*
- *pay £300 compensation for the distress and inconvenience caused by its handling of the claim."*

Ageas's response to my provisional decision

Ageas is disappointed with my provisional decision and has made a number of points summarised below:

- The job note from 2 October 2015 does state: "Engineer advised actuator head required changing as port valve is currently gone and letting water pass. Part fitted tested all working correctly, engineer has advised if fault reoccurs If whole actuator may require replacement." As this repaired the boiler the new part was not required at this point, and it was classed as a remedial repair rather than a temporary repair.
- This was confirmed on 20 January 2016 when Mr H reported a boiler breakdown - complete failure, no heating or hot water. The engineer checked the boiler and this was working properly and providing heating and hot water, the problem was the pump on the shower has failed causing the shower to make a great deal of noise. The engineer did also say "ADVISORY: thermostat potentially could do with a replacement, however not essential as this is still working."
- This means that three months after the repair to the valve, the boiler was still functioning, and did not demonstrate that the replacement part should have been fitted.
- Mr H had the valve replaced some considerable time later but this doesn't prove it needed replacing in October 2015.
- the definition of beyond economical repair is "in the opinion of our approved engineer the cost of repair is more than the cost of replacement."
- The total amount spent on the repairs to Mr H boiler was £1,334 and given the age and value of the boiler this would have been beyond economic repair.
- As the compensation payment I've proposed is based on the first engineer not fitting a new diverter valve, it doesn't agree to this. It carried out an effective repair and the boiler was still working in January 2016. The engineer had only said it would need replacing if the problem recurred and there's no evidence from future visits that this was the case.

Ageas has also confirmed that it has not repaid any premiums monies to the broker or Mr H, following cancellation of the policy.

Mr H's response to my provisional decision

Mr H says he accepts my provisional decision in the main. He has also however made a number of further points for consideration, which I've summarised below:

- He does consider that the compensation award I said I was intending to make is low, considering the amount of gas he lost due to the delays; two damaged shower pumps and the time and stress involved in dealing with the repairs and the complaint "and the many many months without proper heating and water."
- He is unhappy that I have said Ageas can recoup any part of the premium. The refund of premium was offered by the broker and is an entirely separate and distinct matter. The policy was never voided and the payment was "merely part of the

broker's own resolution of the mis-selling complaint made against them... It just so happened that the compensation amount offered by the broker was equal to the premium paid, but it was not a refund of premium in the sense referred to" in my decision. Mr H has provided a copy of the email from the broker stating that the policy would be cancelled with immediate effect and the premium refunded.

- His engineer did replace the boiler pump. But he also had to replace two new, good quality, shower pumps (confirmed as having been correctly fitted).
- He arranged for the repairs to be done (the diverter valve and boiler pump) as part of a new insurance contract with another provider. They inspected the boiler when confirming cover it and carried out the repairs. Nothing else has needed doing and the system has run fine ever since.
- As replacing the diverter valve and boiler pump were the only things done by them under that contract, and their only visit, the effective cost of these replacements would be the cost of that contract, being £206.94. He has provided evidence of this amount. And also that it was happy that all parts for his boiler are still available.
- The other insurance provider did not consider the boiler was beyond economic repair when they replaced the diverter valve. In fact they commented on the excellent condition of the boiler and that it should be good for many years to come. They would not have offered maintenance on this boiler had that been the case, which shows just how nonsensical and untrue Ageas' comments are. Ageas have not substantiated the "beyond economical repair" argument quite simply because they cannot.
- Ageas can't have listened to the relevant call recording in which it confirmed it would pay for the cost of a new pump?

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 set out in my provisional decision why I thought that Ageas should have replaced the diverter valve and boiler pump from the outset and that it hadn't provided any evidence that that the boiler would have been uneconomic to repair in the event these were to be replaced.

Ageas has provided the cost of five different visits and says the cost of those adds up to £1,334 and so it was uneconomic to repair but it hasn't said what the cost of the diverter valve would have been and why doing this in October 2015, or soon after, would have been more than the cost of replacing the boiler. The cost of replacing the boiler hasn't been verified either, which is what it says the assessment would be based on. It just refers to Mr H's boiler being more than seven years old but this is not enough to persuade me that the boiler was beyond economic repair in October 2015. And, as Mr H points out, the other provider didn't apparently raise any issue with the economics of replacing the parts in question.

Ageas also says that the repair carried out in October 2015 was a permanent repair and there is no evidence the diverter valve ever did need replacing. However, Mr H said throughout that the problem as reported in October 2015 was never totally resolved and I find his evidence on this convincing. He says the same problems recurred continuously albeit intermittently. I note Ageas' engineer referred to the thermostat needing to be replaced, but with no information about why. But this would seem to support Mr H's reporting that he still had issues in getting hot water and heating. While some time had passed between October 2015 and the replacement of the diverter valve, I am persuaded that the

original problem had not been resolved and this is supported by his reporting since then and his evidence to us.

Mr H had the repairs done under his new insurance contract (which cost him £206.94) and I agree that the cost of that contract would be a suitable payment from Ageas. It seems to me it would not have cost less than this to have the work done independently, so Ageas should pay him £206.94.

Mr H has said again that the shower pumps were damaged due to Ageas's failure to carry out the correct and proper repair in October 2015. However, I still remain of the opinion that there is not enough evidence to support this. While it might seem too much of a coincidence, I can't safely reach that conclusion on the evidence currently available. Mr H also says that Ageas told him it would replace the shower pump and so is bound by that but I don't agree. Even if it did assure him it would do this, it would not be bound by that pledge.

I note both parties are unhappy with the compensation award I said I intended to make. I remain of the opinion that £300 is an appropriate amount to compensate Mr H for the trouble caused to him. While I think it should have carried out the repair its own engineer had identified as necessary, it was attending and tried to resolve the issues.

Finally, Ageas has confirmed that it has not made any refund to the broker or Mr H in respect of the premium. And I note the broker cancelled the policy rather than voided it. Therefore there need be no adjustment to the award I make in this decision.

my final decision

I uphold this complaint against Ageas Insurance Limited and require it to:

- Pay Mr H the sum of £206.94, together with interest at 8% simple per annum, from the date he paid this amount, to the date of reimbursement (if he paid by instalments, then interest will run on each instalment from the date each instalment was paid); and
- pay £300 compensation for the distress and inconvenience caused by its handling of the claim.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 12 January 2018.

Harriet McCarthy
ombudsman