

## **complaint**

Mr and Mrs H complain that Admiral Insurance (Gibraltar) Limited unfairly declined their home insurance claim.

## **background**

Mr and Mrs H have home insurance provided by Admiral.

In early January 2019, Mr H noticed their boiler (located in an outhouse) was on fire. He managed to put the fire out and called Admiral to make a claim. During the initial call, Mr H confirmed the boiler was about 28 years old and said there'd been no previous problems with it. He also told Admiral he'd arranged for an electrician to come out to do *"the electrical side of it"* and said he was having a replacement boiler fitted the following day. Admiral told Mr H to take photographs, as they'd be needed to validate the claim. It also said it would arrange for a loss adjuster to get in touch - probably within 24 hours - and they'd come out to assess the damage. Mr H told Admiral he hoped to have everything *"back to normal in 24 hours"*. Admiral commented that as long as he took pictures of the damage *"it shouldn't be an issue"*. And it said he should keep hold of any invoices and a list of the work done.

Admiral sent a loss adjuster out about five days later. The loss adjuster took photographs of the damaged boiler (the replacement was already installed by this point) and noted its age. According to the loss adjuster's notes Mr and Mrs H were to *"forward a plumber report and estimate forensics may be required if the plumbers report is unclear"*. Following the loss adjuster's visit, Mr H disposed of the old boiler.

In mid-February 2019 (and over a month after his inspection), the loss adjuster sent his report to Admiral and recommended the claim be declined. He said he couldn't rule out *"wear and tear"* in the absence of a forensic inspection (as the damaged boiler had since been disposed of). Admiral declined the claim in full and said the damage was likely caused by wear and tear (mechanical breakdown) given the boiler's age.

Mr H spoke to Admiral about his claim in mid-March 2019. It told Mr H that its position had been prejudiced because he'd disposed of the old boiler. And in the absence of other specialist reports, it couldn't really say what caused the damage. But it thought it was more likely due to wear and tear. Mr H reminded Admiral that the boiler was still at his home when the loss adjuster came out and said nobody had told him a forensic report would be needed.

Mr and Mrs H complained to Admiral, as they weren't happy with its handling of the claim, or its decision not to settle it. Admiral gave them a similar response to the one given when they discussed the claim in March. Although it added that it hadn't received a plumber's report from Mr and Mrs H, so couldn't fully assess the situation.

Mr and Mrs H complained to us.

Our investigator looked into the complaint and felt Admiral had acted unfairly. The investigator felt it was reasonable for Mr and Mrs H to dispose of the old boiler, particularly because Admiral hadn't specifically told them not to and they'd taken photographs of the damage beforehand (as instructed). The investigator also thought it

was unfair for Admiral to rely on a “wear and tear” exclusion in the policy given that Mr H said they'd had the boiler serviced a few months before and no issues had been identified. The investigator recommended Admiral pay Mr and Mrs H £500 in line with the “reimbursement basis” section of the policy.

Admiral didn't agree with the investigator's view. It said at no point had Mr H indicated he'd be getting rid of the boiler, so Admiral hadn't agreed to it. As Admiral didn't agree, the complaint has been passed to me to decide.

### **My provisional decision**

I sent Mr and Mrs H and Admiral my provisional decision on 24 December 2020. I've included the relevant extracts below.

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

*Insurance policies don't cover every eventuality. They're designed to offer cover against certain defined risks. It's for the policyholder to demonstrate that an 'insured event' happened - in other words, that one of the risks included in the policy had materialised. If they can do this then the insurer should either pay the claim or show that an exclusion applies which allows it to decline the claim.*

*Admiral don't seem to be disputing that the boiler caught fire. Nor do they appear to dispute that the incident Mr H reported was potentially covered by their home insurance policy. But Admiral thought it more likely that the cause of the damage was mechanical failure due to 'wear and tear'. Mr and Mrs H's policy contains a general exclusion relating to damage caused by 'wear and tear'. So, Admiral relied on that exclusion to decline the claim.*

*Based on the evidence I've seen, I'm not currently satisfied Admiral's decision was fair or reasonable. I'll explain why.*

*Admiral said its position was prejudiced because it couldn't forensically examine the boiler to assess the cause of damage. And because of that, it thought the likely cause was 'wear and tear' given the boiler's age. I don't dispute there's likely to be some wear and tear to a boiler that was almost 28 years old at the point Mr H made the claim. Even though Mr H said there'd been no problems with it before he made the claim. But I think the key issue here is whether it was fire or something else that caused the damage to the boiler. Based on the evidence I've seen, I'm not currently satisfied Admiral's done enough to fairly show the wear and tear exclusion should apply.*

*Admiral had photographs from Mr H and its loss adjuster to show the boiler caught fire. And the loss adjuster was able to inspect the damaged boiler whilst it was still at Mr and Mrs H's house. So, I think it would have been pretty clear to Admiral that the boiler had suffered fire damage. And Mr H told Admiral he'd had no problems with the boiler before he noticed the fire. So, I think Admiral had enough information to show that the cause of the damage was fire. And, as Mr H's policy is covered for fire, I don't think it was fair of Admiral to then rely on a policy exclusion for 'wear and tear'.*

*I also don't think it was fair for Admiral to suggest that part of its rationale for saying the most likely cause of the damage was 'wear and tear' was because Mr and Mrs H hadn't kept the damaged boiler for forensic examination. Admiral's pointed to the following policy condition to support its position:*

*"you must not throw away, get rid of or destroy any items that are damaged until we agree, and you have taken a photograph beforehand."*

*I accept the policy terms do say that items being claimed for shouldn't be disposed of until Admiral has given the go-ahead. But I don't think it was fair for Admiral to rely on this condition in the specific circumstances of this case. That's because when logging the claim, Mr H told Admiral he'd already arranged for an electrician to come out and he said a plumber was fitting a replacement boiler the following day. Given that Mr H made the claim in January - in the depths of winter - and his boiler controlled the heating and hot water, I can fully appreciate why he felt he needed to have it replaced straightaway.*

*So, Admiral knew that Mr H was taking immediate steps to replace the boiler. And he rang Admiral for advice and guidance on what he needed to do next to progress his claim. The only advice Admiral gave him was to take plenty of photographs of the damage and keep hold of any invoices showing the work done. And I think Mr H should have been able to rely on the information Admiral gave him at that stage. It follows that if it was essential for Mr and Mrs H to keep their old boiler or instruct a plumber for a cause of damage report then I think Admiral should have made that clear to Mr H over the phone. Time was of the essence for Mr and Mrs H, so I don't think it was reasonable to expect them to start looking through the wording contained in their policy booklet to find out that they would be required to keep their old, fire-damaged boiler. So, I don't think it's fair for Admiral to refer to their failure to keep hold of the old boiler as a factor in its decision to decline the claim on the grounds of a policy exclusion - 'wear and tear'. Or by relying on the fact Mr H breached this condition.*

*I say that in particular because - whilst noting a forensic inspection might be needed later on there's also no evidence the loss adjuster communicated that to Mr and Mrs H. And had he or Admiral done so, it's reasonable to assume Mr and Mrs H would have kept hold of the damaged boiler in the interests of Admiral considering their claim quickly and fairly. So, again, I don't think it's fair or reasonable for Admiral to rely on this factor in its decision making. And it follows that I find it reasonable for Mr H to think he could dispose of the old boiler once the loss adjuster had been out - particularly as he'd taken photographs as Admiral told him to.*

*There's also some dispute about whether the loss adjuster asked Mr and Mrs H to get a plumber's report. The loss adjuster's notes taken after he'd inspected the damage to the boiler indicated he had. But I can see that when discussing his complaint with Admiral, Mr H appears to suggest he hadn't. Where there's a conflict in the evidence - as there is here - I need to decide what's most likely to have happened. And, on balance, I'm not persuaded the loss adjuster did ask Mr H to get a plumber's report. I say that because the claim was clearly important to Mr and Mrs H, and if they'd known it was needed I think it's likely Mr H would have got a report - as that could have been the difference between the claim being successfully settled and not. And Mr H got the other evidence Admiral asked him to, so there's no reason to believe he wouldn't have done the same here.*

*For all of the reasons I've outlined, I don't think Admiral has dealt with Mr and Mrs H's claim fairly and reasonably. To put things right now, I'm intending to say Admiral should settle Mr and Mrs H's claim as I've set out below. I'm also intending to say Admiral should award interest on the settlement from the date their claim should have been accepted. That's because Mr and Mrs H should have had their claim settled (around February 2019 when the loss adjuster recommended it was declined) and their money back based on the claim settlement terms I've referred to. And it's clear that Admiral's handling of this claim has caused Mr and Mrs H some inconvenience. So, I'm intending to say Admiral should award them £200 compensation to address that.*

### **Responses to my provisional decision.**

Admiral hasn't given me any comments or additional information to consider.

Mr H responded on behalf of himself and his wife. He said he had nothing further to add to what had already been said. However, he also said "*It is not the outcome that I would have liked. But at least whatever the ombudsman's outcome is (if any) will in part go towards paying off the cost the replacement boiler*".

### **My findings**

I've again considered all of the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so I'm going to uphold it.

As neither Admiral nor Mr and Mrs H have given me comments or new information to consider, I see no reason to change what I said in my provisional decision.

### **My final decision**

I uphold this complaint and direct Admiral Insurance (Gibraltar) Limited to:

- settle the claim within the remaining terms of Mr and Mrs H's policy. Admiral should add simple interest to its settlement figure at a rate of 8% a year from 12 February 2019 to the date of final settlement<sup>1</sup>;
- pay Mr and Mrs H £200 compensation in respect of the inconvenience they've suffered as a result of Admiral's handling of their claim.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs H to accept or reject my decision by 4 March 2021.

Amanda Scott  
**ombudsman**

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<sup>1</sup> If Admiral considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Mr and Mrs H how much it's taken off. It should also give them a certificate showing this if they ask for one, so they can reclaim the tax from HM Revenue & Customs if appropriate.

