

## **complaint**

Mrs J complains about the level of service she received from Aviva Insurance Limited under a home emergency insurance policy.

In this decision my references to Aviva include the claims handling agent it's used throughout. The agent is also an insurance intermediary which sold the policy.

As the policy is in Mrs J's sole name, my decision is addressed only to her. I appreciate her husband Mr J has dealt with this matter on her behalf, with her authority.

## **background**

In mid-November 2016 Mrs J called Aviva because the boiler had failed. Aviva's engineers replaced various parts over a number of visits, but this didn't fix the problem. Mr J complained about the delay and Aviva said he could call out his own engineer, which he did. His engineer changed the gas valve, which seemed to resolve the problem but unfortunately only temporarily.

Aviva said it would pay for a new printed circuit board ('PCB') as well, but if this didn't work it might refer back to its engineer. Mr J didn't go ahead and asked Aviva to send out its engineer again. Aviva's engineer said he'd order a new ignition board. Aviva's notes suggest the boiler then worked, but made a noise when igniting. Mr J sent in invoices from his engineer for payment.

Shortly afterwards Mr J reported that the boiler started, but then there was a bang before it started to work, so he asked Aviva to call out to check the boiler's safety. He suggested another firm should come out, which Aviva agreed to. That engineer said the ignition board was faulty so ordered a new one. It then appeared that a number of further parts would be needed to fix the boiler.

Mr J gave Aviva an update on 8 December. He said the boiler struggled to start, worked occasionally after resetting a few times and then locked itself completely when out on auto mode (which was its normal setting when working properly). Aviva's engineers from the two firms it had instructed visited further times, to give an estimate of the work needed to resolve the problem. By 13 December Mr J asked Aviva about its plan to resolve the problem. He said he'd had 10 engineer visits and it was proving difficult and costly to take time off work. He thought Aviva should reimburse him for the pre-authorized work by his engineer (which Mr J had paid for) rather than waiting until the boiler was fixed, as it had suggested. Aviva said it would deal with the payment when the overall claim was resolved.

Mr J had two further visits on 14 and 15 December. Although the boiler started intermittently the problem with the auto function continued. Aviva said it would escalate the matter to a senior engineer.

Mr J said the same engineer from an earlier visit called out on 19 December and couldn't diagnose the problem. Having spoken to the boiler manufacturer he suggested replacing parts again. At this point Mr J suggested it might be more cost effective simply to replace the boiler. Aviva said it wouldn't take this decision yet and on 21 December it arranged for a senior engineer to call out. On 23 December Mr J said the engineer told him that a 'wire' was missing. Having monitored the boiler for 24 hours he reported that yet again the original fault persisted.

After some confusion about who was visiting him and what parts were being changed, Aviva said an engineer would call on 24 December to replace the control PCB (having earlier changed the ignition PCB). Mr J clarified that both PCBs had previously been changed. When the engineer arrived he said there was no point changing the PCBs as both had been changed before, as well as numerous other parts. The engineer said a new boiler would be the best solution as there was no guarantee that replacing the parts again would fix the problem. Mr J reported the situation to Aviva pointing out he'd waited over 40 days for the problem to be resolved.

Aviva said the cost of parts that had been replaced – and needed to be replaced - exceeded the value of Mr and Mrs J's boiler (which was then around 13 years old). This made it 'beyond economical repair' or 'BER'. It said it could offer two options:

- As his boiler was more than 7 years old, and BER, Mrs J was entitled under the policy to a £200 contribution towards a new boiler; or
- It would pay for a stated brand of boiler, with a two year warranty, but Mr and Mrs J would pay the installation cost direct to the installation company.

Mr J responded to say he'd not had a visit from a senior engineer, and he'd expect a manufacturer's visit to diagnose the problem before the boiler was declared as BER. He pointed out that if engineers replaced parts on a trial and error basis then every boiler would be BER. Also, he said this decision could have been made a lot earlier to spare them the distress and inconvenience of being without a working boiler for (then) 45 days.

Mr J had some concerns about the replacement boiler, which wasn't the same make and model as his own, and had only a limited warranty. He suggested Aviva pay the installation cost to resolve the matter and complaint. Aviva wouldn't do this paid Mrs J £300 compensation plus their engineer's costs (£291.71). At Mr J's request it also refunded the £95 policy excess. Mr J didn't think this was enough and came to us.

Our investigator upheld the complaint in part. He recommended Aviva pay a further £300 (£600 in total) compensation for distress and inconvenience, given the time taken to try to fix the problem. Our investigator thought Aviva had fairly declared the boiler as BER. He said it should pay £200 towards the replacement boiler as set out in the policy. This was in addition to the payments it had agreed to make for Mr J's own engineer's visit, and the excess. Our investigator said the offer to pay for a new boiler if Mrs J paid for installation was outside the policy terms. He didn't think there was any basis for Aviva to refund the policy premiums, as they'd received the benefit of the policy.

Aviva agreed to the additional compensation but Mr J didn't agree with the outcome. He pointed out that Aviva had authorised a part being ordered by his engineer (a wiring loom) which he'd paid for even if it wasn't used. Aviva agreed to increase its offer to cover the loom. But this didn't resolve Mr J's concerns.

In mid-November 2017 Mr J had his boiler repaired by a different company. He said the fault was diagnosed in the first visit and rectified in the second, at a cost of £371.61. The replacement parts were listed on the attached job sheet as a combustion door and an ignition PCB board. He said this proved his point that some of the items included in the decision to declare the boiler as BER (including a fan which hadn't been highlighted in 15 visits) were unnecessary.

Mr J suggested that to resolve the complaint Aviva should pay him £900 compensation plus £70 for the replacement part not previously paid) plus the £371.61 it cost him to repair the boiler. Our investigator put this to Aviva, but it wasn't prepared to increase its offer.

### **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 think Aviva has offered a fair amount of compensation. I'll explain why, and in doing so I'll focus on the points I think are central to this dispute.

It's not in dispute that Aviva couldn't resolve the problem with the boiler over 15 separate call outs. I understand Mr J's point that it should have diagnosed the problem from the outset, but I don't think Aviva acted unreasonably by replacing the parts that seemed to be causing the problem. The evidence from the engineers was that parts needed to be replaced to try to resolve the problem.

Aviva has also paid the costs for the engineer Mr J instructed himself. That engineer couldn't fix the problem either (although the boiler worked for a short while following that visit). Aviva has also agreed to pay to Mr J the cost of the wiring loom.

I don't think Aviva was wrong to try to resolve the issue, but it's also clear the boiler only worked intermittently. As Mr J says he and Mrs J couldn't use it normally because it locked when it was put on to the auto function.

Aviva was entitled to take into account the advice of the engineers it instructed when authorising parts to be replaced and in later deciding the boiler was BER. I don't think the cost of parts used in making that assessment was unreasonable. I don't think Aviva had to involve the manufacturer before it reached the decision to declare the boiler BER.

I have looked at the evidence Mr J has since provided. He says the boiler worked again after two parts were replaced (the combustion door and the ignition PCB, as shown on the invoice).

But the difficulty I have is that I can't say to what extent the parts already replaced by Aviva had a bearing on Mr J's engineer being able to resolve the problem in November 2017. Aviva had already replaced many parts and even if the new fan and gas valve weren't needed, as Mr J suggests, the parts he had replaced in 2017 would likely still have made the boiler BER. So I think Aviva was reasonably entitled to declare the boiler as BER.

Under the policy's terms, and because the boiler is more than seven years old, Mrs J (the policy holder) is entitled to a payment of £200 because the boiler was declared BER. Aviva has agreed to pay that amount.

Aviva has also offered Mr and Mrs J the option of a boiler replacement. I don't think this was an unreasonable thing to do, to try to resolve the issue. It wasn't something that it had to offer under the policy terms. So I don't think I can fairly say Aviva had an obligation to offer the same make or model boiler or a longer warranty period. Mrs J was entitled to reject the proposal, which she did.

I've carefully considered the total compensation payment that Aviva has offered Mrs J (via Mr J). I can award compensation only to Mrs J as she's the policy holder and 'eligible complainant' under our rules. But it's very clear that Mrs J was both distressed and inconvenienced by the failure of Aviva to fix the boiler earlier. She saw the impact of this on her husband and young family. The family had the problem at a cold time of year, and it included the festive period while they were together at home.

Aviva has offered a total of £600 compensation. I've thought about Mr J's comments about taking time off work repeatedly for 15 separate engineer's visits. As the investigator has explained, I don't make awards based on an hourly business rate or rate per day. I do accept that Mrs J and her family were caused substantial inconvenience in having to take off so much time for engineers' visits. It's clear they were distressed at not having a working boiler, not least as they have a young family.

I've taken all the evidence into account. Aviva's offer of £600 is one that we consider to be 'substantial' under our published guidance (as our investigator has explained to Mr J). I think it's fair and reasonable, and I don't require Aviva to pay any more.

Finally, Mr J has said he thinks the policy was mis-sold. But here I'm dealing with a claims complaint against the insurer. If Mrs J, through Mr J, wishes to make a complaint about the way the policy was sold she'll need to raise this as a new issue against the company which sold it. That company is the one that Aviva has used as its agent in handling the claim but the mis-sale issue is a separate one to the claims handling issue. It will be registered against the agent, which is also an insurance intermediary or broker.

### **my final decision**

I uphold this complaint in part. Aviva has already paid Mrs J £291.60 (their engineer's costs), £95 excess refund and £300 for compensation. Where it hasn't already done so, and in addition to these amounts I order Aviva Insurance Limited to pay Mrs J the following amounts as it's offered to do:

- £70.98 for the wiring loom, and
- £200 under the policy terms because the boiler was declared BER; and
- £300 additional compensation for distress and inconvenience.

Aviva Insurance Limited must pay the above amounts (where it hasn't already done so) within 28 days of the date it receives Mrs J's signed acceptance of this final decision. If it pays later than that it must add interest\* at the simple rate of 8% simple per year from the date of my final decision to the date it makes the payment.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs J to accept or reject my decision before 22 March 2018.

Amanda Maycock  
**ombudsman**

\*If Aviva Insurance Limited considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Mrs J how much it's taken off. It should also

give Mrs J a certificate showing this if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.