

complaint

Mr H complains that British Gas Insurance Limited have treated him unfairly as they wouldn't pay his claim for clearing a blocked drain.

background

The background to this complaint was set out in my provisional decision – a copy of which is attached and forms part of this final decision.

I issued a provisional decision saying why I thought the complaint should be upheld in part. I invited Mr H and British Gas to give me any more evidence and information they wanted me to consider before issuing my final decision. Mr H accepted my provisional decision and didn't have anything further to add.

British Gas disagreed with my decision, they said in summary:

- They felt their terms and conditions were clear that the drainage policy was only to “restore flow”;
- They'd already provided a quote on the repair before it was completed – which wasn't covered;
- They recognised they didn't clearly explain why they couldn't complete the repair due to the policy terms but still didn't feel they should cover the cost of tanker hire.

my findings

I've reconsidered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I've reached the same conclusion as I did in my provisional decision for the same reasons.

British Gas haven't given me any information that's materially different to what I'd already seen. But I've carefully considered their points.

1. They've said their terms and conditions were clear that the policy only covered “restoring the flow” to the drain. But I'm satisfied on balance that the original work completed by the engineer hadn't “restored the flow”. And British Gas seems to accept it too in their final response letter, when they say “*products had completely blocked the entire chamber*” and that's why the tanker was required. It follows that I therefore consider this should be covered under Mr H's policy.
2. British Gas have said a quote had been provided before the tanker was used - but this differs from Mr H's version of events. I think it is important to make clear that my findings and provisional decision are made on a balance of probabilities - what is more likely, than not, to have happened – not on what definitely did or didn't happen. I recognise that there's a dispute over when Mr H was told the tanker cost wouldn't be covered. I think what's more important is what's contained both in the terms and conditions and on the receipt Mr H received. This clearly shows different costs for the tanker hire and cleaning of the drain.

3. I think it's worth noting that British Gas themselves have acknowledged they could've been clearer when explaining why the tanker cost wouldn't have been covered. So taking all that into account, I think it's reasonable to believe Mr H thought that the tanker hire was for unblocking – not cleaning.

So this final decision confirms the findings and proposed settlement as set out in my provisional decision.

my final decision

My final decision is that I uphold this complaint. I direct British Gas Insurance Limited to:

- refund the cost of the tanker hire paid by Mr H in full, adding 8% simple interest a year from the date it was paid to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 6 March 2019.

Jenny Lomax
ombudsman

copy provisional decision

complaint

Mr H complains that British Gas Insurance Limited have treated him unfairly as they wouldn't pay his claim for clearing a blocked drain.

background

In November 2017, Mr H contacted British Gas to claim on his home emergency policy for unblocking his toilet/drain. British Gas instructed a specialist drain engineer to attend Mr H's property and clear the blockage.

At the end of November 2017, the engineer removed part of the blockage but told Mr H that he couldn't clear all the pipework as a specialist piece of equipment would be needed to do this. British Gas said Mr H was told by the engineer that this wouldn't be covered under his policy as the work was to clean the drain, and he was given a quote for this additional work to be completed.

Mr H said at the beginning of December 2017, the engineer returned and the pipes were completely unblocked. He said the engineer told him at this point that the work wasn't covered under his policy. But as he'd taken time off work, and he felt his drain was still blocked he felt he had no option but to pay for this additional work on this date. Mr H wasn't happy that he'd paid additional costs to unblock the drain which he felt should've been covered under his policy. So he complained to British Gas.

British Gas didn't uphold the complaint. They said that Mr H had been given a quote and had agreed to the additional costs. They also said that because of the materials that had caused the blockage, a specialist piece of equipment had to be used - and this would be classed as cleaning not unblocking. Mr H didn't agree so he asked this service to look into his complaint.

Our investigator upheld the complaint. She thought that the policy documents didn't make it clear what the difference was between unblocking and cleaning the drain - and therefore Mr H wouldn't have known why he wasn't covered. She also thought the policy exclusions weren't clear, and that it was reasonable that Mr H thought he was covered regardless of how the blockage was cleared. She also felt that Mr H's version of events was plausible - and that he agreed to the works and was going to follow-up with British Gas at a later date. So she recommended British Gas refund Mr H the repair costs charged by the engineer.

British Gas didn't agree. They said that the policy terms were clear that cleaning of drains wasn't covered. And they provided the invoice Mr H had paid which detailed the additional costs. As an agreement couldn't be reached, the case has been passed to me to make a decision.

my provisional findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I've decided to uphold it in part - I'll explain why.

cleaning or unblocking

Mr H's complaint is, essentially, that he feels he's paid for additional work that should've been covered under his policy. He feels that regardless of the equipment used, if the drain doesn't have 'free-flow' this should be treated as unblocking not cleaning.

I've looked at the policy general conditions and I can see they say that "*repairing and unblocking drains to restore flow*" is covered although "*cleaning and descaling your drains*" isn't. However, it isn't clear what the definitions for "unblocking" or "cleaning" are. It also doesn't say that using a rod for example, would be treated as unblocking but using a tanker would be treated as cleaning. So I think it's reasonable that any process completed by British Gas to "*restore optimum flow*" - regardless of the equipment used would be covered.

I've seen evidence that the drain engineer noted when he came to unblock the drain that he wasn't able to complete the repair. I've also seen that British Gas said in their final response letter that "*products had completely blocked the entire chamber*" which is why a specialist tanker was needed to fix the problem. However, I can't see that the engineer mentioned cleaning in their report to British Gas, only that the "blockage wasn't covered due to earth being found down drain, which would indicate rodent problem or abuse of drain". I've looked at the policy and I can't see there's any exclusion for this, or that these circumstances would be treated as cleaning rather than unblocking. So I think it's reasonable that this would be covered. And I can't see anywhere in the policy that confirms there will be extra costs involved if a repair cannot be completed using standard equipment.

type of blockage

British Gas said that due to the material blocking the drain, the process was classed as cleaning rather than unblocking. However, I can't see anything in the policy documents which says if there is a specific cause of the blockage - in this case earth or rubble - that this wouldn't be covered. I also can't see any notes showing that British Gas undertook an investigation to identify what the actual cause of the blockage was. So I don't think it's fair for them to treat Mr H's claim as cleaning rather than unblocking.

I've also seen that when British Gas contacted the specialist company, they said that Mr H wasn't covered due to the amount of material blocking the drain. However, I can't see in the policy documentation that there is a restriction on the amount of material blocking the drain. And I think it's reasonable to think that if there was a significant amount of material restricting the flow that couldn't be cleaned with a rod or material that needed "clearing" as the engineering company said in March 2018 - that this would be treated as unblocking rather than cleaning.

accepted quote

I can see that the specialist engineer noted that Mr H had paid for the works and had already been given a quote so he was aware of the costs. But it's not clear what was discussed at the original meeting with Mr H - only that it wasn't going to be covered. So I can't say if Mr H was told that the additional works would be used for cleaning or just that different equipment was needed. However, I think it's reasonable that Mr H felt obligated - after taking time off work, and once the tanker had arrived - to pay this fee to clear the blockage. And that he could then claim this back from British Gas afterwards - as he tried to do.

I've seen the receipt for the work undertaken on Mr H's drain and I can see that it is split in two parts. One part is for the use of the tanker to remove the earth within the drain, and the second part is for cleaning the drain. And on this basis, I think that the tanker hire for removing the earth should be treated as unblocking which is covered under Mr H's policy, whilst the second part relating to cleaning wouldn't be covered. So I think it's fair that the cost of the tanker hire should be refunded to Mr H.

I understand that Mr H will be disappointed with my decision as he wanted a refund of all the additional costs he incurred. However, the receipt from the engineer does state that some of the cost was due to cleaning of the drain - which isn't covered under his policy. And I think Mr H would've been aware that although he hoped to claim all the costs back when he agreed to pay, that he might not be able to. So I don't think it would be fair to ask British Gas to refund the cost of this.

my provisional decision

My provisional decision is that British Gas Insurance Limited should refund the cost of the tanker hire paid by Mr H in full, adding 8% simple interest a year from the date it was paid to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 1 February 2019.

Jenny Lomax
ombudsman