complaint

Mr H is unhappy with the level of service received from British Gas Insurance Limited during an annual service carried out in February 2013. Mr H believes that damage was caused to his central heating system as a result of British Gas' negligence.

background

I issued my provisional decision on this matter in November 2014 and invited both parties to respond with any further information or evidence that they wanted to be considered. An extract from my provisional decision is set out below:

"An annual service was carried out as part of Mr H's central heating insurance cover in the middle of February 2013 – the engineer's report says no faults were found and relevant safety checks confirmed the boiler was working safely.

Mr H and family returned from holiday in early April 2013 and turned the central heating on which started to make loud noises. Mr H says that the boiler pressure gauge was in the red zone and scalding water was leaking from a pipe. He noticed the filling loop tap (which is used to allow more water into the system and thereby increase the system pressure) was open and so isolated it from the mains water supply. Mr H says that the engineer that carried out the annual service in February 2013 must have left the filling lop tap open, as he was the last person to inspect the system.

British Gas attended the same day. The engineer changed the pressure relief system. There was also a note made by the engineer that there were signs of scale within the system. British Gas says that he also recommended a new boiler but this is disputed by Mr H. I understand that there were problems with the downstairs radiators after this, as well as noise coming from the system when it was on. British Gas attended again four days later and found blockages within the heating system that were affecting the heating downstairs. An engineer re-attended the next day to carry out the work to try and remove the blockages, which was considered to have been caused by a build-up of sludge and scale.

However, the problems with the system were still not resolved and British Gas attended again two weeks later. It advised Mr H in the meantime to turn down the temperature of the system to reduce the noise, however, he did not consider this to be a suitable option because of his family circumstances.

British Gas said it again recommended a replacement boiler; however, the checklist dated 27 April 2013 says that this was not the case.

Mr H emailed British Gas, dissatisfied with the level of service received. He considers that the scale and debris which was blocking the system was caused by the filling loop being left open. He says that this caused excess pressure, which in turn forced the scale round the system. Mr H has had the boiler replaced (and one radiator that was also damaged) and wants British Gas to contribute towards this cost. Mr H says that he sourced the parts themselves in order to try and keep the cost as low as possible, because they could not afford to replace the boiler. He has provided copy invoices to show the total cost of £2,089.71. He has also made the following points:

- *British Gas has misrepresented the facts - he was never told he needed a new boiler and all the engineer's checklists record the answer 'no' to the question of whether a*

new boiler was recommended. Also no scale or other problems were reported during the visit in early April.

- *And the original service was not carried out properly – the front cover was never removed to inspect the boiler properly. British Gas said that the engineer was unable to remove the cover fully because it was in a cupboard but was able to slide the cover down – Mr H says it is not possible to slide the cover down. It is in a cupboard but with a purpose built door which can be removed easily to allow the front cover of the boiler to be removed - as has been the case previously.*
- *He has suffered significant loss as a direct result of British Gas' error in leaving the filling tap open and he expects it to put that right, including the cost of the new boiler; his time in resolving the problems with the heating and pursuing this complaint.*
- *Scalding water was escaping from the pressure relief overflow and has caused staining to the external wall of his property.*
- *A technical adviser from the boiler manufacturer has confirmed that 'excess pressure on its own would allow the water to get hotter and release more harmful elements''.*
- *He also put £1,295 as the cost of their time spent dealing with the claim and complaint (at £10 per hour) and the distress caused to his wife by the way British Gas dealt with her.*

British Gas disputes this and says that scale builds up over time and cannot be caused by increased pressure. It has also said that even if the increased pressure had increased the temperature of the water circulating around the system, there is a thermostat which would cut out the boiler, if the water temperature reaches a certain temperature.

British Gas also says that problems caused by scale are excluded under the policy but that it had tried to remove the blockages as a gesture of goodwill:
'8.4 Boiler and Controls and Central Heating exclusions – removing sludge or hard-water scale from your system or appliance'

British Gas also offered to refund the premiums Mr H paid since renewing his policy in December 2012 – totalling £82.40.

Our adjudicator did not uphold the complaint. He did not consider that the evidence provided by Mr H was sufficient to prove that the damage caused to the boiler and his property was a direct result of anything done by British Gas.

Mr H was not satisfied with this and so the matter has been referred to me.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

It is difficult for me to be absolutely certain whether the filling loop was left open and if so, by whom. British Gas has accepted in some correspondence that it did so but has later retracted this. However, there seems to be no reason to doubt what Mr H says about this and so I am going to proceed on the basis that the loop was left open by British Gas' engineer during the annual service in February 2013.

British Gas says that even if it left the loop open it would not have caused the subsequent problems with the system. I have considered all that it has said. However, Mr H has also provided an email from the manufacturer, which says that:

"Excess pressure on its own would allow the water to get hotter and release more harmful elements. Your biggest problem is that by introducing fresh water to the system as this was heated it would release harmful elements. Just look inside your electric kettle. Noise is caused by heated water not being able to flow away quickly enough."

I find this evidence – from an independent third party - persuasive, and I do not consider that British Gas has established that this is not correct.

I also do not consider that British Gas has established that the problems were due to a build up of scale that had commenced before February. And while it may be correct that there is a thermostat which would eventually cut out the boiler the manufacturer's technical adviser clearly considers that the damage could have been caused despite that.

I also note that there was approximately a month before Mr H and his family went away for a two week holiday. Mr H has not mentioned that there were any problems with the heating – either with noise, or radiators not working properly - before going away. However, I do not consider that this establishes that the damage cannot have been caused by leaving the tap open.

In any event, although the policy excludes cover for the removal of sludge or scale, it only excludes cover for the repair of damage caused by "scale, sludge or other debris if we have told you on a previous visit that permanent repairs, improvements or a British Gas Powerflush… are needed". (My emphasis.)

British Gas has said in response to this complaint that it had previously told Mr and Mrs H that a new boiler during its attendances, however, the checklists left with Mr H (dated 14 February, 7 April, 12 April and 27 April 2013) all answer 'no' to whether a replacement boiler has been recommended and 'no' to a question as to whether the engineer has recommended any "system improvements".

I can understand Mr H's concern about this, which I have to say I share. There is no independent persuasive evidence that he was informed of any 'scale, sludge or debris' prior to the problems he reported on his return from holiday. Therefore any damage to the boiler caused by sludge and scale (even if it were not a result of the filling tap being left open) would appear to be properly covered by the policy.

It is therefore my opinion that the cost of the replacement boiler should be reimbursed together with interest at our usual rate.

Mr H has also asked for the cost of his time in dealing with this matter. We do not normally make awards for the time spent on a claim or complaint, unless there is proven loss of earnings for instance. We normally consider that a global award as compensation for all the possible non-financial consequences of an error – such as inconvenience, distress and anxiety – is more appropriate. This would seem to be more appropriate in this case and I am satisfied that a compensation award is warranted. Subject to any further evidence in this regard I consider that the sum of £350 is appropriate to reflect the impact on Mr H of British Gas' handling of this claim and complaint and the fact that the staining is still present on the outside of his house.

I am minded to uphold this complaint against British Gas Insurance Limited and require it to do the following:

- *pay Mr H the sum of £2,089.71 by way of reimbursement of the cost of a new boiler, together with interest at 8% simple per annum from the date that they paid each invoice in relation to that to the date of reimbursement; and*
- *pay Mr H the sum of £350 by way of compensation for the inconvenience and anxiety caused by this matter."*

developments

Both parties have responded.

British Gas has provided the following submissions:

- It does not accept that it is right to assume that the filling loop was left open by its engineer: "Given the operation and required technique i.e. turning on the filling loop and observing the pressure gauge to a required pressure then turning off the loop, the time scales involved in "topping up" are short, taking seconds to top up a system, and it is likely to be completed in one action. We find it hard to believe that that our engineer would turn on the loop and walk away".
- If the filling loop was fitted correctly the system should only reach 3 bar, if it was left on, and then the pressure relief valve would "lift" - "this would enable flow and the standing pressure would change to working pressure, which would normally take it below 3 bar, and a cycle of pressure build up and pressure release would take place."
- The way the valve works, although the pressure would increase in the system, if there was heating demand, it may cause some increase in noise and (if the filling loop had been left open) water escaping from the system/discharge pipe but no the problems described.
- In the weeks prior to Mr H's holiday, no issues with the central heating system were reported, which would indicate that the filling loop was not left on by its engineer but was left on at some stage later.
- It does not accept that the statement from the manufacturer's engineer is correct: There were no problems with the heat exchanger from 2009 to the time of this issue. If in four years' of constant use, there were no scale problems, it is unlikely that "a constant flow though the primary side of the heat exchanger for the length of time recorded would cause a problem."
- The statement that "Water pressure on its own would allow the water to get hotter and release more harmful elements" is incorrect. Pressure on its own would not make any difference to the operating of the system from a functional view point. Although the boiling point of water is affected by its pressure, the system controls are designed to react and control the system at actual temperatures - 80° C at 1 bar pressure is still 80° C at 4 bar pressure.
- There is a statement that the system was running at between 4 to 5 bar. As the pressure relief valve should lift at 3 bar this would indicate that the pressure relief valve was either faulty, the calibration of the pressure gauge was in doubt, or the water pressure in the area is well above average. None of which is attributable to British Gas.

British Gas' submissions were put to Mr H for his comments. He has made the following submissions in response:

- He is disappointed that this appears to be another attempt by British Gas to avoid liability for something that is clearly their responsibility – its statements are inaccurate and not based on the report sheets or other information it previously supplied.
- He reminds me that in its final response letter, British Gas stated that on all of the engineers' visits they had advised that the boiler needed to be replaced, when in fact every single engineer's report stated the exact opposite and that the boiler did not require replacement. Even when this was brought to its attention British Gas continued to make the same false statement.
- British Gas at first admitted that it's engineer left the filling loop open during the service visit on 14 February 2013, this only changed some weeks later when the extent of the damage to the boiler became apparent.
- What is unequivocal proof is the contemporaneous record on British Gas' engineer's report dated 7 April 2013 which states: "PRV [Pressure Relief Valve] blowing as fill tap left on after ASV [annual service visit]". This was the first technical expert to witness the actual state of the boiler – the "significant and frightening noise from the boiler and scalding hot water being discharged at force from the discharge pipe."
- No one else touched the boiler or turned the filling loop between the time of the annual service and when he returned from holiday. The boiler is difficult to get to - positioned in an enclosure, accessed via a seven foot removable panel, with a locking catch at the top which can only be reached by ladder. Noone had reason to access it or did access it, in that period.
- He also challenged British Gas to prove that the boiler was actually serviced as the front cover of the boiler was never removed during the service visit in February 2013, as the engineer would have had to remove another panel to be able to do so and he did not.
- British Gas cannot rely on the engineer's apparent statement that he 'slid' the boiler cover down to inspect/clean the inside because Mr H's wife was in attendance the whole time and he did not do this, neither is it possible given the casing around the boiler.
- If it had been serviced properly, why did the engineer service the boiler again – removing the cover and cleaning the inside of the boiler – on 11 April 2013.
- Given that the engineer that attended in February 2013 gave a false statement about removing the cover of the boiler, it casts doubt on his credibility concerning whether he 'walked away' having turned on the filling loop.
- The simple fact is that prior to 14 February 2013 the boiler and all of the radiators were working correctly and required no remedial work, but after that the pipework and radiators were blocked with sludge/debris and half the radiators in the house were inoperative. "We have proved beyond reasonable doubt that this can only have been caused by over pressure in the system and in the end the boiler had to be replaced and the entire system flushed and cleaned and some parts were so completely blocked that they required replacement."
- British Gas refer to the fact that there had been no problems from 2009, when British Gas took over responsibility for the maintenance and insurance of the boiler system, and there had been no build-up of scale and yet contradict themselves by now saying that there must have a been a build up of scale during that period.
- No problems were apparent with the boiler before he went on holiday because it had been switched off, as the temperature was mild and it was also remained switched off during the holiday.
- Even if the pressure relief valve were faulty, this would be irrelevant had the British Gas employee not left the filling loop open.

- How can British Gas question a statement made by the boiler manufacturer who is undoubtedly an expert on this boiler.

findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint, including all the new points raised by British Gas and Mr H's response.

I cannot be absolutely certain who left the filling loop open or when. However, as stated in my provisional decision, I have no good reason to doubt Mr H's evidence about what happened. He says that the boiler is housed within a casing, which is difficult to remove; noone had cause to remove that casing and touch the filling loop tap and no one did between British Gas' attendance on 14 February 2013 and when he reported the problems on 7 April 2013. It seems to me that having only recently had the boiler serviced, if there was a problem with the boiler between 14 February and when he went on holiday, Mr H would have reported it to British Gas, rather than top up the pressure himself.

British Gas says that it is difficult to accept that its engineer would have turned the tap on and not turned it off because it would not normally take long to top up a system like this. But mistakes do happen and this is not sufficient to establish it did not happen.

I find Mr H's evidence convincing and consider it proven on the balance of probabilities – ie that it is more likely than not – that British Gas' engineer left the filling loop open.

British Gas says that nevertheless, it would not have caused the problems subsequently reported. British Gas says that even if it left the filling loop open, as soon as the system pressure exceeded 3 bars, the pressure relief valve would operate; there would be leakage from the valve and the boiler would not have been damaged. Its email of 29 April 2013 British Gas says the engineer had "changed the pressure relief valve which had been working effectively".

However, this is at odds with other pieces of evidence about this: its engineer's report dated 7 April 2013 records that the pressure relief valve was "blowing" due the fill tap being left open. He replaced the valve and the pump vessel. If the valve required replacement it obviously was not able to completely control the increased pressure (and thereby prevent damage to the boiler). Whilst I accept that the engineer would not have been able to tell why or how the loop had been left open (and may have recorded what Mr H told him about this) he would not have reported it was blowing and needed replacement, if it had been "working effectively" and unless he considered that was his own diagnosis as a gas engineer.

British Gas says that if the damage was caused by the filling loop being left open since 14 February 2013, then this would have been apparent earlier - even if the boiler was switched off - as water would still have been entering the system. However, it may well have been but it seems possible to me that the pressure relief valve and the thermostat were operating correctly for part of that period – and preventing such problems – but at some point they failed. This is supported by the fact that the pressure relief valve and the pump vessel needed to be replaced on 7 April 2013. In addition, no one knows how much water was entering the system, and therefore how quickly it would have started causing problems. I also still think that the evidence from the manufacturer's technical adviser is more persuasive on the issue of whether the increased pressure could cause the problems subsequently experienced.

British Gas initially said that while it accepts if the new inflow of water was left uncontrolled it was possible that it could cause sludge and scale but now says it would not have done so in the time period here. There have been a number of inconsistencies on British Gas' part – as pointed out in my provisional decision - although it said that engineers had repeatedly advised Mr H that there was sludge and scale in the system, all the service records he was provided with specifically state that he was not advised of any such thing, or that any remedial work was required. I agree with Mr H that, even if the pressure relief valve were faulty, this would not have been an issue if the filling loop had not been left open.

It therefore remains my opinion that British Gas should reimburse the cost of the new boiler together with interest.

Mr H has raised comments about the original service not being carried out properly and the potential safety implications of this for him and his family. There is no way for me to know whether the boiler was serviced properly on 14 February 2014, I know that British Gas say that it is not always required to clean the inside of the boiler to do so. However, I am not able to make any determination about whether it was carried out in accordance with Gas Safe requirements. The boiler has now been replaced in any case. I have found that errors were made during that attendance and made an award to compensate Mr H for that. I do not therefore intend to make any separate recommendation or finding about this aspect.

Finally, it remains my opinion that British Gas should also pay compensation of £350 to reflect the inconvenience and anxiety caused to Mr H.

my final decision

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

- pay Mr H the sum of £2,089.71 by way of reimbursement of the cost of a new boiler together with interest at 8% simple per annum from the date that they paid each invoice in relation to that to the date of reimbursement; and
- pay Mr H the sum of £350 by way of compensation for the inconvenience and anxiety caused by this matter.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr H to accept or reject my decision before 1 May 2015.

Harriet McCarthy
ombudsman