

complaint

Mr W complains that British Gas Insurance Limited damaged his boiler while trying to repair it under a home emergency insurance policy.

background

The Financial Ombudsman Service deals with complaints against insurance companies and other regulated financial firms.

Mr W had an EnergyExtra 50 agreement. It covered (in addition to home electrics, plumbing and drainage) repairs to Mr W's central heating system. In return for a monthly fee, Mr W had the benefits of urgent access to an engineer and of paying only a "*fixed fee for every completed repair*". I've seen a renewal letter dated August 2017. It refers to an "*excess level*" of £50.00. So I think that was the fixed fee.

Mr W provided us with a British Gas document about the Homecare range. It lists "*insurance products*" including EnergyExtra 50. And it says British Gas Insurance Limited underwrites all such products. British Gas has agreed with us that EnergyExtra 50 is an insurance product.

Mr W complained that – while trying to replace the flue hood in mid-December – British Gas damaged his boiler beyond repair. He was without central heating and hot water for about six weeks before he paid an independent engineer to install a new boiler. Mr W also got that engineer's report on the condition of the old boiler.

our investigator's opinion

Our investigator didn't recommend that the complaint should be upheld. He thought that, regardless of how the British Gas engineer approached the task, it was probable the outcome would be that a replacement boiler was required.

my provisional decision

After considering all the evidence, I issued a provisional decision on this complaint to Mr W and to British Gas on 9 January 2019. I summarise my findings:

The boiler was an old one. And one of the photographs shows serious rust. So the independent engineer's opinion about the damage to the boiler (in particular the rivets of its casing) isn't enough to persuade me that the British Gas engineer fell below a reasonable standard of care and skill. I preferred the evidence of British Gas that its engineer had to apply force to the flue hood- and the chassis failed due to age and corrosion.

Therefore I didn't hold British Gas responsible for what followed – however uncomfortable and inconvenient that was for Mr W.

Mr W is complaining that British Gas should refund what he paid on about 8 December. He refers to this as a call-out fee. But I think it's the same as the "*fixed fee for every completed repair*" referred to in the agreement and the "*excess level*" referred to in the renewal letter. So I found it likely that Mr W paid £50.00.

I didn't think British Gas did a "*completed repair*". And it hasn't said it has refunded Mr W. So I thought that – unless it did refund him – British Gas should refund Mr W £50.00 – with interest at our usual rate.

Subject to any further information from Mr W or from British Gas, my provisional decision was that I was minded to uphold this complaint in part. I was minded to direct British Gas Insurance Limited to pay Mr W:

1. £50.00 in refund of his payment on about 8 December 2017; and
2. simple interest on that amount at a yearly rate of 8% from that date until the date of its refund. If British Gas considers that it's required by HM Revenue & Customs to withhold income tax from that interest, it should tell Mr W how much it's taken off. It should also give Mr W a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Mr W disagreed with the provisional decision. He says that the British Gas engineer didn't use the required skill and care whilst replacing the flue. And any independent boiler engineer would say nothing should be used to leverage against the heat exchanger fans.

British Gas hasn't responded to the provisional decision.

my findings

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

British Gas has said Mr W's boiler was over 30 years old. He has said it was over 15 years old. Whichever is more correct, it was an old boiler.

In December 2017, Mr W called for help because the boiler was making more noise than usual. So I think the boiler was working.

I hold British Gas responsible for the actions of the engineer who visited Mr W in December 2017. And it's common ground that he didn't fix the boiler but left it not working.

I've read the independent report. It's dated February 2018 but refers to an inspection in late December 2017. It includes the following:

"... It is my professional opinion that the damage to the boiler was caused by brute force of a kind that I would associate with actions either meant to break a boiler of the wall in as little time as possible or an attempt to make sure the boiler will never work again.

...if a boiler that had simply failed was taken off the wall and then thrown out of a first floor window into a skip, I would expect less damage than what I saw here.

...although there was some rust on what used to be the flue hood, there was no rust of any significance on the actual boiler/boiler frame that would come anywhere near rendering the boiler beyond repair.

The actual damage included the frame having been bent so far out of the original shape that the cover could not be fitted back into place.

A number of rivets holding the boiler casing together were broken.

The ignition assembly was bent inward/forward as if it had been given a good whack with a hammer and if I remember correctly, the burner itself was damaged as well. I have worked on many different boilers and I know very well from experience that sometimes it can be very difficult to get certain parts out. How anyone trying to remove a fan can accidentally manage to destroy the ignition is beyond my comprehension; the only two options I can see are either wilful destruction or incompetence to the extreme. What I could see of what was left of this boiler, apart from the extensive mechanical damage, was in line of what I would expect for a [boiler model] of around that age; used but nothing that would lead me to advise the user to start budgeting for a replacement...."

So the independent engineer said that there was no significant rust on the boiler frame and that – before the damage – he wouldn't have advised Mr W to start budgeting for a new boiler. He said that someone had damaged the boiler's ignition, frame and burner by force. Mr W said the British Gas engineer snapped the rivets on the chassis some 18 inches below the flue hood.

British Gas sent us 3 photographs. After we sent them to Mr W, he added some further comments. He says one of the photographs shows that the British Gas engineer hadn't removed the screws securing the flue hood to the chassis. Instead, Mr W says, the engineer had used something as a lever causing damage to the flue hood (which was going to be replaced) and unrepairable damage to the chassis and heat exchanger fins.

But it's common ground (and supported by the photographs) that there was a rust hole in the flue hood. So – while it had been producing heating and hot water - the boiler hadn't been working safely. It needed a new flue hood to contain exhaust gases. Therefore I don't find the British Gas engineer at fault for leaving Mr W without a working boiler on the first visit on about 8 December.

The engineer ordered spare parts and on 12 December he returned to fit them. So I don't think he'd given up on the boiler. He was trying to fix it. In order to do so, he needed to remove the old flue hood. Mr W's independent engineer didn't say anything about whether the flue hood was attached by screws and /or rust. So I accept British Gas's statement that the hood was stuck on due to rust – so its engineer used force.

I've looked again at the photographs. And I don't agree with Mr W that they show that the British Gas engineer had used something as a lever causing damage to the chassis and heat exchanger fins.

I've found the boiler was an old one. And one of the photographs shows serious rust. So the independent engineer's opinion about the damage to the boiler (in particular the rivets of its casing) isn't enough to persuade me that the British Gas engineer fell below a reasonable standard of care and skill. I prefer the evidence of British Gas that its engineer had to apply force to the flue hood- and the chassis failed due to age and corrosion.

Therefore I don't hold British Gas responsible for what followed – however uncomfortable and inconvenient that was for Mr W. He complained to British Gas. From what Mr W says, he was away from home towards the end of December. British Gas turned down his complaint and Mr W got the independent engineer to visit.

It then took him until mid-January to get a new boiler installed. I don't find British Gas responsible for any of the time Mr W was without a working boiler. So I don't find it fair and

reasonable to order British Gas to pay compensation for the distress and inconvenience he suffered during that time. And I don't find it fair and reasonable to order British Gas to contribute anything towards the cost of Mr W's new boiler.

But Mr W's complaint form included the following:

"I would also like to be reimbursed the call out fee that was charged when my boiler was rendered operational [sic] by one of their employees"

I think Mr W is complaining that British Gas should refund what he paid on about 8 December 2017. He refers to this as a call-out fee. But I think it's the same as the *"fixed fee for every completed repair"* referred to in the agreement and the *"excess level"* referred to in the renewal letter. So I find it likely that Mr W paid £50.00.

I don't think British Gas did a *"completed repair"*. And it hasn't said it has refunded Mr W. So I think that – unless it did refund him - British Gas should refund Mr W £50.00 – with interest at our usual rate.

my final decision

For the reasons I've explained, my final decision is that I uphold this complaint in part. I direct British Gas Insurance Limited to pay Mr W (unless it has already paid him):

1. £50.00 in refund of his payment on about 8 December 2017; and
2. simple interest on that amount at a yearly rate of 8% from that date until the date of its refund. If British Gas considers that it's required by HM Revenue & Customs to withhold income tax from that interest, it should tell Mr W how much it's taken off. It should also give Mr W a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 4 March 2019.

Christopher Gilbert
ombudsman