

## **complaint**

Mr and Mrs C complain that Homeserve Membership Limited (“Homeserve”) mis-sold them a home emergency insurance policy which wasn’t suitable for their central heating system as it didn’t cover the unvented hot water cylinder (and its controls) included in their system.

## **background**

Mr and Mrs C have had a home emergency policy administered by Homeserve for a number of years. Homeserve’s records indicate that the current policy was set up by phone in December 2008 after Homeserve had contacted Mr and Mrs C. A recording isn’t now available of the sales calls made at the time.

The policy was renewed each year with Mr and Mrs C paying an annual premium. At renewal each year policy documents were sent which included the policy terms and conditions. Under the Gas Central Heating Breakdown section was the following:

*“What isn’t Covered?”*

*b) immersion heaters, combination cylinders, elson tanks, thermal storage units (e.g. Gledhill Boilermate), unvented hot water cylinders (e.g. Range Powermax), or their controls;”*

In August 2016, Mr and Mrs C had a fault with their hot and cold water supply. An engineer sent by Homeserve said the fault lay with a valve in their unvented hot water cylinder. This was excluded from the policy, so they would have to get it dealt with by someone else. They did so, and then complained to Homeserve.

They complained about the way Homeserve and its engineers handled this and other call outs. Homeserve paid Mr and Mrs C compensation which included a contribution towards the cost of replacing the valve. This has been the subject of a separate complaint to this service so I won’t deal with it further in this decision.

They also complained that the policy was mis-sold to them at the outset. Their main reason for taking out the policy was to protect their heating and hot water system, although they said Homeserve persuaded them to add on protection for other services. They weren’t told in the several sales calls they had with Homeserve that a main feature of their system wasn’t covered by the policy. In the years since they took it out, none of Homeserve’s engineers who visited them ever pointed this out.

Homeserve didn’t accept their complaint. It said it wasn’t for it to advise what insurance cover they should take out, and the terms and conditions of the policy sent to them each year said their unvented hot water cylinder wasn’t covered.

## **our investigator’s view**

Our investigator recommended that this complaint should be upheld. She thought it was more likely than not that the policy was mis-sold at the outset. Mr and Mrs C started receiving phone calls about cover for their boiler after they had a new boiler installed. The policy as sold included other features, but the adjudicator didn’t think Mr and Mrs C would have bought the policy if they had known their hot water cylinder wasn’t covered.

Homeserve had supplied a copy of its sales script current at the time. There wasn't any mention in it of exclusions from cover depending on the type of cylinder a customer had. She didn't think Mr and Mrs C were in a position to make an informed decision about the policy without this important information.

It wasn't reasonable for Mr and Mrs C to know the type of cylinder they had, or that the exclusion in the policy about unvented cylinders applied to them. And at no time until 2016 did any of the engineers sent by Homeserve point out that their cylinder was excluded.

The investigator recommended that Homeserve refund all the premiums Mr and Mrs C had paid since December 2008, with simple interest at the yearly rate of 8%. Mr and Mrs C had made a claim in 2013 arising from an escape of gas, so it was reasonable that the cost of this was deducted from this refund.

Mr and Mrs C accepted the adjudicator's recommendation. Homeserve responded to say, in summary, that:

- while the exclusion might not have been referred to in the sales call, it was made clear in the policy documentation which was issued to Mr and Mrs C each year; and
- the policy covered plumbing, drainage, electrical, security and other issues as well as the boiler/heating system. So although Mr and Mrs C might not have been able to benefit from the boiler element of the policy, they could have made claims on the other elements of cover.

### **my provisional findings**

I issued my provisional view to Mr and Mrs C and to Homeserve on 20 July 2017. In it I said that after the complaint was passed to me, Mrs C contacted the investigator to say that she had found a letter from Homeserve dated August 2005 about a complaint they had made. This suggested that their policy had been in place earlier than 2008. The adjudicator asked Homeserve if it had any information about this.

Homeserve said its records showed that Mr and Mrs C did have cover for a number of risks for several years before 2008 - Plumbing and Drainage, Gas Boiler Breakdown, Water Supply Pipe, Electrical Emergency & Breakdown and Pest Contamination. However the boiler covered for breakdown was a different older boiler.

Homeserve said when the new policy was taken out in 2008, £84 of the annual cost related to the annual boiler service. However it didn't think it should have to refund the boiler element of the policy because the boiler was covered by the policy. It was the unvented cylinder heating the hot water that wasn't covered by the policy and never had been.

From what Mrs C had told our investigator, I said it seemed the new boiler and a larger hot water tank were installed around the time Mr and Mrs C built a loft extension. A hot water cylinder could either be a vented, or an unvented, type. The two types performed differently, and had different advantages and disadvantages, in a hot water system. I thought it was more likely than not that this was discussed with Mr and Mrs C at the time they chose their new heating and hot water system.

The sale of the policy by Homeserve was classified as non-advised. This meant Homeserve didn't recommend the policy to Mr and Mrs C. It simply had a duty to give them enough information about the policy so they could decide for themselves whether or not to buy it.

Homeserve was under a duty to tell them the main aspects of cover and any significant or unusual policy terms.

Mr and Mrs C said the fact that unvented hot water cylinders weren't covered by the policy wasn't mentioned in the several phone calls they had about taking the policy. The sales script Homeserve was using at the time was silent on the exclusion. The investigator had thought it wasn't reasonable for Mr and Mrs C to know the type of cylinder they had. Without this important information they weren't in a position to make an informed decision about the policy, or whether the exclusion in the policy applied to them.

Having considered all the available evidence, I said I had come to a different view. It wasn't uncommon for an unvented hot water cylinder to be fitted as part of a central heating system. Nor was it unusual for responsibility for an unvented cylinder to be excluded in a heating system insurance policy.

Homeserve had supplied copies of the renewal documents and policy wording provided to Mr and Mrs C at various annual renewals, including the most recent. These all made it clear, both in the summary or key facts and in the policy itself, that unvented cylinders were excluded from the policy.

Mr and Mrs C took out the policy soon after they installed the cylinder. So I thought it was likely they would have been aware of the type of cylinder they had. I didn't think the exclusion was particularly significant or unusual. Even if it was, I thought Homeserve had done enough to bring to their attention that this type of cylinder wasn't covered by the policy.

For these reasons, I didn't think Homeserve had mis-sold the policy at the outset or on each renewal. And as the cylinder wasn't within the policy, I didn't think there was any obligation on Homeserve's engineers to point this out when they serviced or attended to the boiler. Subject to any further comments or evidence I received from either Mr and Mrs C or Homeserve by 3 August 2017, I said I didn't intend to uphold this complaint.

Homeserve said it had nothing to add to its previous comments. Mrs C responded to say, in summary, that:

- their previous boiler wasn't covered by Homeserve;
- Homeserve contacted them immediately after their new boiler was installed to offer insurance. It told them they had "perfect cover"; and
- when she approached Homeserve for advice in 2016 it was unhelpful.

### **my findings**

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

For the reasons I explained in my provisional view, I don't think Homeserve mis-sold the policy to Mr and Mrs C. I think Homeserve took sufficient steps to make it clear that unvented cylinders weren't covered by the policy, and its engineers weren't required to point this out when they visited Mr and Mrs C.

As I have mentioned, the way Homeserve dealt with their claim in 2016 has been dealt with in a separate complaint to this service.

**my final decision**

My decision is that I don't uphold this complaint and make no order against Homeserve Membership Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs C to accept or reject my decision before 11 September 2017.

Lennox Towers  
**ombudsman**