

complaint

Mr and Mrs S complain about the installation of a boiler, and about Inter Partner Assistance SA's ('IPA') subsequent failure to diagnose that this boiler had been incorrectly installed. All references to IPA include the agents it has appointed to handle claims.

background

Mr and Mrs S had a boiler installed in 2007. The boiler was initially covered by a two year free guarantee, which expired on 14 May 2009.

On 6 March 2009, Mr and Mrs S took out a Gas Central Heating insurance policy underwritten by IPA. Mr and Mrs S then took out a Complete Cover insurance policy underwritten by IPA in December 2009.

From 2007 onwards, Mr and Mrs S experienced ongoing intermittent problems with their boiler and engineers attended on multiple occasions. Mr and Mrs S made numerous complaints to IPA during this period. In August 2012, Mr and Mrs S's boiler was classed as immediately dangerous and the engineer identified that this was due to incorrect installation.

IPA then did the following;

- paid for a replacement boiler (including a contribution of £300 towards Mr and Mrs S's choice of boiler model);
- paid a partial premium refund of £185.88; and
- paid a total of £650 compensation.

As Mr and Mrs S remained unhappy, they brought their complaint to the attention of this service. Our adjudicator said the Financial Ombudsman Service did not have the power to look into Mr and Mrs S's complaint about the installation of the boiler or about any of the attendances which took place under the two year free boiler guarantee.

For the issues which the adjudicator thought we could consider (i.e. the attendances under the insurance policies), the adjudicator took the view that the payments already made by IPA were fair and reasonable in the circumstances.

As Mr and Mrs S did not agree they requested that an ombudsman review their case.

my findings

The Financial Ombudsman Service is not free to consider every complaint that is brought to us. Our powers to consider complaints are set out in the Financial Services and Markets Act 2000 (FSMA) and in rules, known as the Dispute Resolution Rules (DISP) written by the Financial Conduct Authority (FCA) in accordance with the powers it derives from FSMA. These form part of the FCA Handbook.

DISP 2.3.1.R says:

'The Ombudsman can consider a complaint under the Compulsory Jurisdiction if it relates to an act or omission by a firm in carrying on one or more of the following activities:

(1) regulated activities...

...

or any ancillary activities, including advice, carried on by the firm in connection with them.'

The installation of Mr and Mrs S's boiler does not fall within the definition of a regulated activity. A free boiler guarantee also does not constitute a regulated activity. This means that this service has no power to consider Mr and Mrs S's complaint about the installation of the boiler or about any of the engineers' attendances under the free boiler guarantee.

However, a contract of insurance does fall within the definition of a 'regulated activity' and the Financial Ombudsman Service can therefore consider IPA's actions under Mr and Mrs S's Gas Central Heating and Complete Cover insurance policies from March 2009 onwards.

When looking at these issues, I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

A number of engineers' attendances took place under Mr and Mrs S's insurance policies. Mr and Mrs S repeatedly complained to IPA about the problems they were experiencing but, in August 2010, IPA's appointed engineer reported that he could not see any installation faults with their boiler.

However, in August 2012, a different firm of engineers identified that the boiler had been incorrectly installed (although IPA's notes indicate this engineer did also say that he did not think the boiler was dangerous from the start, as the flue was cemented to the wall properly and the boiler had moved away from the flue).

What is clear is that Mr and Mrs S experienced significant difficulties with their boiler during the time their insurance policies were in force and, overall, I am not satisfied that IPA investigated the problems as thoroughly as they could have from the outset.

Mr and Mrs S will have suffered substantial inconvenience and distress as a result of this; they had no fully functional boiler at times and had to arrange to be at home for numerous engineers' attendances. Mr and Mrs S have also had to engage in lengthy correspondence with IPA about their complaints at various times.

Having said that, in my opinion, the payment of £650 which IPA has already made is fair and reasonable compensation in the circumstances. I realise that Mr and Mrs S will be disappointed with this but the primary role of the Financial Ombudsman Service is to investigate cases involving financial loss. Although we have the power to award compensation for non-financial loss, we cannot seek to punish or discipline a business through our awards. The payment of £650 which IPA has already made falls into the category of what we would consider to be a 'substantial' award of compensation and so I do not propose to increase it.

IPA has also provided a partial premium refund of £185.88. I appreciate that Mr and Mrs S are seeking a full refund of all of the premiums they paid for their insurance policies and I understand they feel they would not have agreed to take out these policies had they known that their boiler was incorrectly installed.

However, I do not think it would be reasonable to ask IPA to refund any additional premiums. I say this because Mr and Mrs S had the benefit of numerous engineers' attendances under their policies and it is very difficult for me to determine which of these attendances related to problems arising from the incorrect installation and which concerned unrelated problems.

Overall, having taken into account the events which the Financial Ombudsman Service can consider, the payments already made by IPA are fair and reasonable in the circumstances.

my final decision

My final decision is that the Financial Ombudsman Service cannot consider Mr and Mrs S's complaint about the installation of the boiler in 2007 or about any attendances under their free two year boiler guarantee.

I do not uphold Mr and Mrs S's complaint about the events which took place under their insurance policies and I make no award against Inter Partner Assistance SA.

Colin Keegan
ombudsman