

complaint

Mr and Mrs H complain that Aviva Insurance Limited and its agent S mis-sold a home emergency policy. They want a refund of premiums and compensation.

background

Mr and Mrs H had a gas central heating breakdown policy with Aviva, administered by S. They felt that it had been mis-sold as their boiler (covered by the policy) was obsolete as parts to fix it weren't available, but they weren't told about this until their boiler needed repair. They noted that the insurance premium didn't reduce when parts became unavailable. S paid £200 towards the cost of a new boiler (as part of the terms and conditions of the policy).

Mr and Mrs H complained to S. On behalf of Aviva, it said that it didn't cancel insurance policies when a few parts of a boiler became obsolete as other parts could still be available, allowing the boiler to be repaired. S pointed out that at times it was still possible to source parts, and it wouldn't be fair or reasonable to cancel policies if one part became unavailable if the boiler was still working and only needed repair using available parts. S noted that the terms and conditions of the policy set out the procedure when parts were unavailable, as was the premium, and these were accepted by Mr and Mrs H when they took out the policy. S also said that when it cancelled the policy, no refund of premiums were due as two claims had been made within the past year. It also refused to pay for a new boiler.

Mr and Mrs H complained to us, and said that S should've told them earlier parts were obsolete and it shouldn't rely on the "*small print*". They also said that if they'd known, they could've planned when to replace the boiler to take account of their health issues and the needs of a relative for whom they cared at various times.

The investigator's view was that the policy wasn't mis-sold as it was sold without advice being given and the terms about obsolete parts weren't so unusual that they needed to be highlighted to customers. But he said that the core of this complaint was about the ongoing suitability of the policy as the boiler aged. The investigator thought that a consumer could reasonably expect a diminishing return as the boiler aged and the terms and conditions set out what would happen if a part became obsolete. He also noted that the policy still gave Mr and Mrs H a benefit as the boiler could've needed a repair for which a part was still available, and said insurers don't need to tell consumers when parts aren't available until they're needed for repairs.

Mr and Mrs H disagreed. They said the insurance policy wasn't clear and transparent and felt they should've been reminded that they'd only get £200 if the boiler needed replacement. Mr and Mrs H also said that as the value of the benefit of the policy reduced, so should the premium and insurers should tell consumers when parts became unavailable.

my findings

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

In essence, Mr and Mrs H are unhappy as they feel that the benefit they received from the policy reduced over time as the boiler aged and parts became obsolete, but the premiums didn't reduce and they weren't told that parts were becoming obsolete. The policy (and the boiler) has been in place since 2005, and it wasn't until 2018 that the boiler needed a part which wasn't available.

Insurance premiums aren't calculated on the basis on an individual analysis of a particular boiler. Insurers partly calculate premiums on the likelihood of a percentage of the boilers it covers needing repair. They also set out in terms and conditions in what circumstances a boiler is covered and what will be done in particular circumstances. Consumers accept both the premium quoted and the terms and conditions when they take out an insurance policy. If the consumer doesn't like the premium or the terms or conditions, it's open to them not to take out the policy.

Mr and Mrs H accepted the premium and the terms and conditions when they took out the policy. They've supplied evidence that they received all the relevant information about these points. And I can see the terms about obsolete parts have been in place for several years. I can't say that Aviva or S has acted unfairly or unreasonably as the information was supplied and Mr and Mrs H chose to go ahead.

The terms and conditions on the point about obsolete parts are clearly set out in my view. They say that if the boiler is more than seven years old (and Mr and Mrs H's boiler is older than this), and a part needed to repair the boiler isn't available, the insurance policy will be cancelled and £200 paid towards the costs of a new boiler. This is what S did on Aviva's behalf. It didn't refund any premiums as S said Mr and Mrs H had benefitted from the policy as they had made call outs (and Mr and Mrs H haven't disputed call outs were made). I can't say that it is unfair or unreasonable to apply the terms and conditions in place.

Mr and Mrs H say that Aviva or S should've told them that parts were unavailable when they became unavailable. This isn't practical – insurers don't control when parts are made or shipped to this country, and don't monitor every boiler insured. They only are made aware when a particular boiler needs a particular part that's unavailable. And as S has pointed out, if a boiler needs repair and can be fixed, it isn't fair or reasonable to refuse to do so because another part not required isn't available. The terms and conditions set out the policy in respect of obsolete parts and it has been fairly and reasonably applied in this case.

Mr and Mrs H have also said that the policy was mis-sold. I note that it's been renewed every year and the terms and conditions have formed part of the renewal notice. And I agree that there's no evidence that any formal advice about the policy has been given and the terms and conditions are consistent with standard industry practice. Mr and Mrs H were given sufficient information to decide whether or not to take out the policy in my view.

my final decision

My final decision is that I don't uphold the complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs H to accept or reject my decision before 17 August 2019.

Claire Sharp
ombudsman