

complaint

Mr T complains that British Gas Insurance Limited mishandled his claim on a home emergency insurance policy.

background

Mr T lives in the United Kingdom. His father is over 65 years old and has a heart condition. So he should be kept warm. As he usually lives outside the UK (and outside the European Union) Mr T's father doesn't get free medical treatment on the National Health Service.

Mr T had a British Gas policy that said it would cover replacement of his boiler if it was under seven years old and British Gas couldn't repair it.

Where I refer to British Gas I refer to the insurance company of that name and I include its engineers, call-handlers and others for whose actions I hold that company responsible.

Mr T had his father staying with him when British Gas said his central heating boiler was unsafe.

Mr T made a claim on the policy. But British Gas wouldn't provide a new boiler free of charge. So Mr T paid for a new boiler.

At around that time, Mr T's father was admitted to hospital and incurred NHS medical costs of £5,625.00.

In its final response letter, British Gas said it was refunding £2,014.25 and making a goodwill payment of £50.00.

Mr T brought his complaint to us. He said British Gas should reimburse his father's medical costs.

our investigator's opinion

Our investigator recommended that the complaint should be upheld in part. The investigator thought that Mr T was always entitled to a free boiler stated in the terms and conditions of his policy. She didn't think that there was a concrete link between Mr T's home being without heat and his father's heart condition getting worse.

The investigator recommended that British Gas should:

1. pay Mr T £250.00 in compensation; and
2. add 8% interest on the refund for the replacement boiler, from the time he paid for the boiler to the time when he was refunded.

my provisional decision

After considering all the evidence, I issued a provisional decision on this complaint to Mr T and to British Gas on 13 February 2019. I summarise my findings:

I didn't think I would have the legal power to direct British Gas to pay compensation for Mr T's father's medical bills, even if I found evidence that it had caused his admission to hospital – which I didn't.

But British Gas should've agreed to pay for the new boiler. Its refusal to do so caused Mr T some worries about money and his father's health.

British Gas acknowledged Mr T's complaint. But it didn't provide a final response letter until 9 December 2017. I found it only right and proper that it refunded the £2,014.25. I didn't think Mr T should ever have had to pay it.

The final response letter said Mr T would receive payment within fourteen days – that is by about 23 December 2017. So he was out of pocket for over three months. So I found it fair and reasonable to order British Gas to pay him interest at our usual rate.

The final response letter also said that British Gas was sending Mr T an extra £50.00. But I didn't think that was enough compensation for the distress and inconvenience British Gas had caused Mr T by declining to provide a new boiler under the policy – and by the delay in dealing with his complaint. I thought that – in addition to worries about money and his father's health – this made Mr T feel ignored.

I found £200.00 fair and reasonable compensation for such distress and inconvenience.

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

1. pay Mr T simple interest at a yearly rate of 8% on £2,014.25 from 13 September 2017 to 23 December 2017. If British Gas considers that it's required by HM Revenue & Customs to withhold income tax from that interest, it must tell Mr T how much it's taken off. It should also give him a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate; and
2. pay Mr T £200.00 for distress and inconvenience.

British Gas hasn't responded to the provisional decision.

Mr T disagrees with the provisional decision. He says, in summary, that:

- He was directly responsible for the care of his father. Mr T paid £3,500.00 on 20 September 2017 and £2,125.00 on 15 December 2017.
- He stopped operating the boiler from 29 August 2017.
- From that date British Gas should've started the process of replacement– but didn't.
- Nobody at British Gas asked the age of the boiler.
- Nobody at its call centres knew about the provisions of the policy.
- British Gas was completely negligent in carrying out their obligations under the contract.
- British Gas failed to prepare the organisation and put processes in place to deal with the claims from customers to carry out its obligations. Therefore, it is not a delay caused by circumstances but an institutional failure to prepare to meet obligations under the contract.

- Its staff tried to continuously mislead the customer that he was not entitled to the free boiler.
- The financial loss is clear.
- The compensation for stress and inconvenience is not just. It simply does not take away the incentive to British Gas to continue to not fulfil its obligations under the contract and mislead customers about their rights under the contract.
- The statement that the boiler was in operation is incorrect. Mr T had to call another engineer for a visit on 7 September 2017.
- Mr T brought to the attention of the engineer on the 29 August 2017 that he was entitled to a new boiler which he refused. He then switched off the boiler on that day. When it was started again, on 7 September, the boiler was heating and giving hot water but was deemed dangerous by this other engineer and cut off.
- Mr T had to live without the boiler with his family for a period of 14 days (from 29 August 2017 to 11 September 2017).

my findings

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

We don't assess compensation at a level to punish or deter poor service. Rather we assess compensation for financial loss and/or distress and inconvenience.

Under the rules by which the Financial Ombudsman Service is bound, we can only award compensation for financial loss and/or distress and inconvenience suffered by a policyholder or person with the benefit of a policy.

Mr T was the policyholder. And his father didn't usually live with him. So I can't say that the policy was for the benefit of Mr T's father.

I've now seen evidence that Mr T paid his father's medical bills. But I haven't seen evidence that Mr T was under a legal obligation to do so.

So I don't think I would have the legal power to direct British Gas to pay compensation for Mr T's father's medical bills, even if I found evidence that it had caused his admission to hospital.

From a British Gas notice, I see that it was 29 August 2017 when an engineer said the boiler was "*at risk*" because of corrosion. I think the notice is signed by Mr T's father. It records that he declined advice to turn off the boiler. So I think it was still in operation.

A British Gas engineer visited on 7 September 2017. And the British Gas file contains Mr T's emailed complaint that day. His email includes the following:

"Worthwhile noting that when the engineer came into the property, the boiler was working perfectly with both hot water and heating. But, the engineer (in his professional opinion) noted that the boiler was not safe and disconnected it."

So I find that Mr T had been using the boiler as normal between 29 August and 7 September 2017.

The British Gas file contains a note from the engineer recording that a “SM” (which I think means Service Manager) had told him Mr T didn’t qualify for a new boiler. I think that note and Mr T’s email show that he had asked for a new boiler under the policy but British Gas refused to give him one.

By 8 September 2017 British Gas (or rather an associated company) had quoted Mr T for a new boiler. He emailed to accept the quote, under protest, that day.

From a hospital discharge letter, I see that Mr T’s father was admitted on 16 September and discharged on 19 September 2017. Doctors recorded a “*four day history of shortness of breath and chest pain...*” So I think his heart condition had worsened about four days before 16 September, that is on about 12 September 2017. Doctors gave a diagnosis of pulmonary oedema and a new diagnosis of AF (Arterial Fibrillation).

I’ve seen an NHS invoice for hospital charges of £5,625.00 for Mr T’s father.

British Gas has told us that it (or rather the associated company) installed the boiler on 11 September. Mr T has said it was on 13 September 2017. I still haven’t seen the invoice – but I think Mr T paid £2,014.25.

Whether the new boiler was installed on 11 or 13 September, it was installed a few days after the engineer’s visit on 7 September and a few days before Mr T’s father was admitted to hospital. So I don’t think British Gas caused much if any avoidable interruption of central heating and hot water.

And I have explained above the reasons why I don’t think I would have the legal power to direct British Gas to pay compensation for Mr T’s father’s medical bills, even if I found evidence that it had caused his admission to hospital – which I don’t.

But British Gas should’ve agreed to pay for the new boiler. Its refusal to do so caused Mr T some worries about money and his father’s health.

British Gas acknowledged Mr T’s complaint. But it didn’t provide a final response letter until 9 December 2017. I find it only right and proper that it refunded the £2,014.25. I don’t think Mr T should ever have had to pay it.

The final response letter said Mr T would receive payment within fourteen days – that is by about 23 December 2017. So he was out of pocket for over three months. So I find it fair and reasonable to order British Gas to pay him interest at our usual rate.

The final response letter also said that British Gas was sending Mr T an extra £50.00. But I don’t think that was enough compensation for the distress and inconvenience British Gas had caused Mr T by declining to provide a new boiler under the policy – and by the delay in dealing with his complaint. I think that – in addition to worries about money and his father’s health – this made Mr T feel ignored.

I find £200.00 fair and reasonable compensation for such distress and inconvenience.

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:

1. pay Mr T simple interest at a yearly rate of 8% on £2,014.25 from 13 September 2017 to 23 December 2017. If British Gas considers that it's required by HM Revenue & Customs to withhold income tax from that interest, it must tell Mr T how much it's taken off. It should also give him a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate; and
2. pay Mr T £200.00 for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 1 April 2019.

Christopher Gilbert
ombudsman