

complaint

Mr and Mrs A are unhappy with the service provided by DAS Legal Expenses Insurance Company Limited following a claim under their home emergency insurance policy.

background

Mr and Mrs A contacted DAS on 19 December 2013 because they could smell gas from their water boiler (their heating is provided separately). DAS sent a contractor to look at the boiler the same day. The contractor diagnosed that a gas valve needed to be replaced and DAS authorised the repair. However, the contractor said the parts couldn't be obtained before Christmas and arranged to return on 28 December 2013 to complete the repair.

DAS was able to get the valve earlier than it thought and a contractor attended on 23 December 2013 but he then diagnosed that the water valve would also have to be replaced.

The total cost of both was just over £532 and as the policy had a claim limit of £500, Mr and Mrs A were asked to pay the excess of just over £32. It appears this was requested by a text message on 27 December 2013 and then DAS left a telephone message for Mr and Mrs A on 31 December 2013, asking for payment. Mr and Mrs A called back and agreed to make the payment.

It then appears that there were problems booking an appointment for the contractor to come back and complete the repair. The contractor finally attended on 4 January 2014 and the two valves were replaced. However the boiler still wouldn't work and the contractor said the diaphragm also needed to be replaced and this would mean they would have to pay a further £56.80.

Mr and Mrs A agreed to pay this and the parts were replaced but the boiler then failed again and on 7 January 2014 the contractor said the heat exchanger also needed replacing, at a cost to them of £389.62 plus VAT.

By now Mr and Mrs A were extremely unhappy with the delays in repairing the boiler and the costs they were being asked to pay. They refused to make any of the payments and complained to DAS.

DAS agreed that there had been undue delays and offered a total of £150 compensation for the inconvenience caused. It deducted the excess from this and sent them a cheque for £60.68.

Mr and Mrs A remained unhappy. They had doubts about the capability of the contractors who had attended, given that they hadn't identified all the issues with the boiler on the first occasion. They decided not to pay for the heat exchanger to be replaced and instead decided to replace the boiler at a total cost of around £1,000. They want DAS to contribute towards this cost.

One of our adjudicators looked into the matter. He considered that the gas leak couldn't be deemed to be linked to the damaged heat exchanger and therefore two claim limits (of £500) should have been available to Mr and Mrs A. This meant they shouldn't have been asked to pay for the heat exchanger. He understood why Mr and Mrs A had concerns about the diagnosis of the contractors, as he thought it should have been possible to identify all the issues on the first visit. The adjudicator also thought that DAS should have been able to repair the boiler a lot quicker than it did.

The adjudicator therefore recommended that DAS make a cash settlement to Mr and Mrs A of £389.62 plus VAT, being the amount it should have paid for the heat exchanger under the policy, in addition to the £60.68 already paid.

DAS doesn't agree and maintains that there was only one claim and therefore it was only obliged to pay up to £500 for all the repairs that were needed.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

The policy provides cover of up to £500 including VAT for one insured incident.

DAS says that because the claim was first reported as being because there was no hot water and a leak from the boiler, it was linked and therefore only one claim limit applies.

However, I agree with the adjudicator that the original gas leak cannot be reasonably considered to be linked to the damaged heat exchanger. The boiler had to be turned off and couldn't be used because it was leaking gas – this would be one insured incident. This was repaired and then it was discovered that it wasn't working because of the heat exchanger. These events are not linked and therefore this would, in my opinion, be a separate insured incident. Although they may have arisen at the same time, the causes are unrelated, neither repair affected the other and the boiler was unusable and/or not working due to both issues. Therefore DAS should have met the cost of the heat exchanger. As Mr and Mrs A decided to have the boiler replaced instead, I agree that it should make a cash settlement of the amount that Mr and Mrs A were told the heat exchanger would cost, i.e. £389.62 plus VAT. Interest should also be added to this payment, at our usual rate.

I also agree that there were avoidable delays in sorting out the parts and repairs which would have caused significant inconvenience, anxiety and stress to Mr and Mrs A. They were without hot water (and I note they had no immersion heater) for 20 days in the middle of winter, including over Christmas. I consider that most of this period was avoidable. In my opinion the repairs could have been completed within four or five days in total. DAS has already paid compensation of £150 for this. I confirm that it is entitled to deduct the excess payment of just under £90 from this, as the repair of the gas leak claim did exceed the claim limit. I think overall, taking into account the cash settlement I have directed, that this is reasonable.

my final decision

I uphold this complaint against DAS Legal Expenses Insurance Company Limited and direct that it should pay Mr and Mrs A £389.62 plus VAT together with interest at the rate of 8% per annum from the date they paid for the boiler to be replaced and the date of reimbursement.

Harriet McCarthy
ombudsman