

The complaint

Mr S complains about the service he received from Domestic & General Insurance Plc (DG) under a protection policy for his shower.

References to DG include their agents who administer policies and carry out services under policies.

This decision covers issues raised in Mr S's complaint to this Service in May 2023. Mr S previously complained about how DG handled a claim for his shower under his protection policy in 2020, the subject of a separate decision by this Service in 2021. This decision takes account of that decision as far as it's relevant to the issues raised in this complaint.

Your text here

What happened

Mr S had a protection policy with DG covering repairs to his shower due to breakdown (after the end of the manufacturer's guarantee period) and accidental damage. The policy was taken out in April 2019 and renewed annually, up to and including April 2023. When the policy was taken out it was set up (based on what Mr S told DG) as being for a power shower. At the time of Mr S's previous complaint, it was established the shower was a digital mixer shower. This meant the shower was covered by a five-year manufacturer guarantee – whereas standard power showers were only covered by a one-year manufacturer guarantee.

Shortly after the April 2023 renewal, the shower stopped working, so he tried to raise a repair request through DG's online repair portal. However, he was referred to the manufacturer as they didn't use DG's booking system (and the shower was still under the five-year manufacturer guarantee). However, Mr S was then asked to progress his repair request by phone and told he'd have to pay a deposit of £80 before an engineer would attend to inspect the shower. If covered by the manufacturer guarantee, the deposit would be refunded. However, due to his circumstances (including disability) Mr S didn't have a debit or credit card. So he wasn't able to book a repair.

Unhappy at what had happened, Mr S complained to DG. He noted, due to his disability, he wasn't able to make or receive phone calls easily, or not at all. He'd tried to raise a claim through the online portal, but he'd got to a stage in the process where the only way to progress was by phone. He wanted to know why that was necessary. And the 'web chat' function wasn't available or displayed. On a previous occasion he'd been asked to make a payment through debit or credit card before an engineer would be sent out. Mr S didn't have a card to make such a payment. He said this requirement wasn't made clear in information provided when he took out the policy. This created a barrier to him accessing the policy. He thought the policy wasn't accurately described as one with no 'deposit/holding payment'. He asked DG to cancel the policy from its inception – once DG had agreed and refunded all premiums paid under the policy.

DG upheld the complaint. In their final response they said they'd tried to contact Mr S by phone to discuss the complaint but, due to the nature of his disability, he requested communication to be sent by email. DG apologised for Mr S being unable to use their online

portal to register a repair claim, as it directed him to contact DG by Phone – something Mr S's disability made difficult. DG said the redirection could be due to an error in Mr S's online account, which they'd asked their service desk to rectify. DG noted Mr S's issue of being asked to make an upfront payment before an engineer would attend but said they (DG) didn't require such payments for shower repairs, so it may have been Mr S had been contacted by a spam company. DG offered to either book a repair for the shower (if Mr S agreed) or cancel the policy and refund the premiums as he requested.

Mr S responded to DG's final response, raising several issues. While happy for DG to cancel and fully refund the policy premiums as they'd offered (once his further issues had been resolved), he didn't think the response addressed all the issues he'd raised. On the request for an upfront payment before an engineer would attend, Mr S said this was from the shower manufacturer. The payment would be refunded if the engineer decided the damage was down to a manufacturer fault (or accidental damage). He thought the practice had been in place for some time, but he hadn't been made aware of it when he took out the policy. As payment of the charge could only be made via a debit or credit card, it meant it wasn't accessible to policyholders who didn't have a debit or credit card. He thought he was paying for a policy that wasn't accessible to him, had been mis-sold and required a payment before an engineer would visit.

Mr S was also unhappy at DG contacting him by phone to discuss the complaint. While he hadn't stated explicitly that he didn't want to be contacted by phone, he felt an email he'd sent raising his complaint should have made DG aware that phone calls were difficult for him to deal with. As a result, the call from DG had caused him unnecessary distress. In addition to the cancellation and full refund of the policy, Mr S felt DG should pay compensation to resolve the further issues he'd raised about his complaint.

Mr S didn't receive a response from DG, so he complained to this service. He'd had to get the shower repaired, and he'd suffered distress and inconvenience from what had happened. He wanted his complaint to be resolved by: DG providing a full refund of his policy; compensation for DG failing to make reasonable adjustment by calling him despite his clear request for DG not to call him because of his disability; compensation for mis-selling the policy and/or failing to provide information relating to the charge/deposit required by the shower manufacturer before they would send out an engineer (had he been aware he wouldn't have taken out the policy); and compensation for the policy not being accessible for a disabled person.

Our investigator issued an initial view in which they didn't uphold the complaint. She thought DG's offer was fair and reasonable. She didn't think the policy had been mis-sold and Mr S should have been reasonably aware that as his shower was under a five-year manufacturer guarantee, he should approach them first were there any problems with the shower. And the £80 payment was a pre-authorisation payment, a pending charge in case any issue with the shower wasn't covered under the guarantee. Had the issue been accidental damage, the claim (for a repair) would have been referred back to DG, with no charge to Mr S.

While she wasn't able to consider whether DG had breached the Equality Act 2010, she didn't think there had been any direct discrimination towards Mr S. As the manufacturer didn't use DG systems, she couldn't hold DG responsible for the problems Mr S had trying to arrange a repair through the manufacturer itself. DG's offer to either arrange the repair for Mr S, with the manufacturer or refund the premiums paid under the policy and cancel it, was fair and reasonable and, in offering to arrange a repair with the manufacturer directly, they had made a reasonable adjustment to recognise Mr S's circumstances.

She agreed it would have been upsetting to Mr S for DG calling him when he'd asked them not to. But the call was made by the complaint handler, about the complaint, and not the

claim. And subsequently the final response was sent by email. The investigator didn't think DG made any errors in relation to the claim, so she didn't think it reasonable to ask DG to pay compensation.

Mr S disagreed with the investigator's initial view. He'd told DG not to call him because of his disability but they'd not carried out his request. He set out the impact the call had on him, given his disability and didn't think the investigator had given enough consideration to this aspect. He requested compensation for the impact and stress of being called. He maintained he'd never been provided with the policy details or been given the right to cancel the policy.

Our investigator considered the points raised by Mr S and issued a second view, in which she concluded DG hadn't acted fairly. She thought that while DG called Mr S once as part of their seeking a resolution to his complaint, and could be considered minor and isolated, it had a significant impact on him. She thought DG should pay Mr S £100 in compensation for the upset caused by calling him when he'd asked them not to. She still thought DG's offer to either arrange the repair for Mr S, or refund the premiums paid under the policy and cancel it, was fair and reasonable.

Mr S accepted the investigator's second view, but DG disagreed and requested an Ombudsman review the complaint. They said the call lasted 33 seconds and the call handler introduced themselves. At which point, Mr S said he would prefer communication via email, to which the call handler agreed and thanked Mr S for his time before ending the call. They didn't think this would have caused Mr S distress. And while Mr S had previously indicated he didn't want to be contacted by phone, it wasn't specifically mentioned in his complaint to DG, so they hadn't had the opportunity to consider it.

And they would have only applied his previous requests to sales calls. Where there was a complaint, DG would call a consumer unless specifically asked not to. This was standard practice which DG considered best practice in handling complaints, to better understand a consumer's concerns.

DG also referred to Mr S's previous complaint to this Service, the subject of a separate decision, with similar elements of complaint.

In my findings, I noted DG's offer to arrange a repair appointment for Mr S with the manufacturer. I thought this a reasonable offer in the circumstances, given Mr S's disability, and DG sought to respond to Mr S's circumstances in a fair way to provide him with access to a repair service.

On the issue of the £80 holding charge, as the manufacturer didn't operate through DG systems, I concluded it wouldn't be reasonable to hold DG responsible for the way they operate, including the requirement for an £80 holding charge. The charge would only be applied if a visit indicated an issue not covered under the manufacturer guarantee. Mr S should reasonably have been aware of this from his previous complaint to this Service. So, I concluded there wasn't any action for DG to take in respect of this issue.

On the issue of DG contacting Mr S by phone as part of their response to his complaint, I noted, when making his complaint to DG, Mr S said he was severely disabled and unable to make/conduct phone calls easily or not at all. I thought this would have made it clear to DG. However, looking at the circumstances and listening to the call in question, I think it was a genuine oversight by the DG complaint handler rather than deliberately ignoring Mr S's request. The call was 33 seconds long, polite and the complaint handler acknowledged Mr S's request for communication through email and acted immediately to end the call.

I acknowledged what Mr S has said about the effect it had on him, but concluded it isn't the role of this Service to punish a business when they make an honest mistake, as I thought was the case. And DG responded immediately by emailing Mr S, as he'd requested. So, I didn't propose to ask DG to take any further action.

As I reached different conclusions to those of our investigator, I issued a provisional decision to give both parties the opportunity to consider matters further. This is set out below.

What I've provisionally decided – and why

I'd first want to acknowledge what Mr S has told us about his significant disability and the impact it has on him, particularly the difficulties he has with making or receiving phone calls – including the arrangements he has to make to make or receive calls. I've borne this in mind when deciding, as is my role here, whether DG have acted fairly towards Mr S.

There are several issues in Mr S's complaint. These include, firstly, his inability to book a repair to his shower using the online DG portal. Secondly, the requirement for an £80 charge before an engineer visit can be arranged (given Mr S doesn't have a debit or credit card). Thirdly, that the policy was mis-sold to him, and DG failed to provide information relating to the charge/deposit required by the shower manufacturer - had he been aware he wouldn't have taken out the policy. Fourthly, DG failed to make a reasonable adjustment by calling him despite his clear request for them not to call him because of his disability. Fifthly, the policy is not accessible for a disabled person.

I've first considered the issues of whether the policy was mis-sold to Mr S when he took it out, and he hadn't been provided with policy documentation or information on the £80 charge required before an engineer visit would be arranged.

In considering this issue, I've noted Mr S's previous complaint to this Service and the Ombudsman decision issued in May 2021 (to which DG have referred). I've looked at the decision as well as the evidence and information relating to the complaint. I've also looked at the evidence and information provided in the current complaint. Having done so, I've concluded Mr S wasn't mis-sold the policy (Mr S's third issue). The earlier decision concluded Mr S was provided with a welcome letter and documents, correctly addressed to him. I've not seen anything to question this aspect of the decision.

And Mr S should be aware, from his previous complaint and decision of this Service, that his shower was a digital mixer shower, which would be covered by the manufacturer's five-year guarantee. The DG policy covers the shower for accidental damage and specifically excludes damage covered under a manufacturer's guarantee or warranty. So, Mr S should reasonably have been aware that the issue with his shower would be first considered under the manufacturer's guarantee.

While Mr S is unhappy his attempt to book a repair through the DG portal wasn't successful (his first issue), I've noted DG's offer to arrange a repair appointment for him with the manufacturer. I think this a reasonable offer in the circumstances, given Mr S's disability, and DG have sought to respond to Mr S's circumstances in a fair way to provide him with access to a repair service (through the manufacturer).

Turning to the second issue. as the manufacturer doesn't operate through DG systems, it wouldn't be reasonable to hold DG responsible for the way they operate – this would include the requirement for an £80 holding charge before an engineer appointment can be booked. The charge would only be applied if the visit indicated an issue that wasn't covered under the manufacturer guarantee. If the visit indicated a fault covered, the holding charge wouldn't be applied. Mr S should reasonably have been aware of this from his previous complaint to this Service. So, I've concluded there isn't any action for DG to take in respect of this issue.

This leaves the fourth issue, DG contacting Mr S by phone as part of their response to his complaint. Mr S says he made it clear in his complaint to DG he was severely disabled and unable to make/conduct phone calls easily or not at all. DG refer to the length of the call and its content. They don't think this would have caused Mr S distress. And while Mr S had previously indicated he didn't want to be contacted by phone, it wasn't specifically mentioned in his complaint to DG, so they hadn't had the opportunity to consider it. And they only applied his previous requests to sales calls. DG refer to their standard practice with complaints to contact a consumer unless specifically asked not to. They consider this best practice, to better understand a consumer's concerns.

I've thought about this issue carefully. I've noted, when making his complaint to DG, Mr S says he is severely disabled and unable to make/conduct phone calls easily or not at all. I think this would have made it clear to DG. However, looking at the circumstances and listening to the call in question, I think it was a genuine oversight by the DG complaint handler rather than deliberately ignoring Mr S's request. The call is 33 seconds long, the DG complaints handler introduces themselves and says they'd like to discuss Mr S's complaint. Mr S says he prefers communication by email, at which point the complaint handler acknowledges his request, thanks him for his time and ends the call. The call is polite, and the complaint handler acknowledges Mr S's request and acts immediately to end the call.

While I acknowledge what Mr S has said about the effect it had on him, it isn't the role of this Service to punish a business when they've made an honest mistake, as I think is the case here. And DG responded immediately by emailing Mr S, as he'd requested. So, I don't propose to ask DG to take any further action.

Having reached these conclusions, I've considered DG's offer to resolve the complaint. They've offered to either book a repair with the manufacturer or to cancel the policy and refund the premiums paid (from its inception). Mr S has indicated his willingness to accept the latter option. Looking at the case as a whole, I think DG's offer to cancel the policy and refund the premiums from inception is fair and reasonable in the circumstances. From what DG have said, they've already cancelled the policy and not collected any further premiums through the direct debit mandate, pending the outcome of Mr S's complaint to this Service. That being the case, DG should now refund the premiums paid from the policy inception to the date of the cancellation.

I've also considered the points made by Mr S about DG failing to make reasonable adjustment by calling him despite his request for them not to call him because of his disability, as well as the policy not being accessible for a disabled person. So, DG acted in breach of the Equality Act 2010.

As I've set out above, I've concluded the issue of DG calling him when he'd asked them not to was an honest mistake which they immediately rectified by ending the call and then emailing him.

I've also considered the issue of the policy not being accessible for a disabled person. But, for the reasons I've set out above, I think DG have acted fairly and reasonably by offering to book a repair with the manufacturer.

I've taken the Act into account, as it is relevant law, but my role here is to decide the complaint on whether DG have acted fairly and reasonably towards Mr S. It's not for me to make a legal finding about whether DG have breached the Act. That would be for a court to decide, should Mr S wish to pursue the point.

My provisional decision

For the reasons set out above, my provisional decision is that I uphold Mr S's complaint in part. I intend to require Domestic & General Insurance Plc to:

- *Refund the premiums paid under the policy from its inception to the date they cancelled the policy.*

Mr S responded to accept the provisional decision, asking for DG to refund the premiums paid under the policy from inception and requesting payment by cheque to his home address. He also asked for a statement from DG providing a breakdown of the amount.

DG responded to also accept the provisional decision but asked for clarification the decision be recorded in favour of DG, as they had offered to refund the premiums under the policy as part of their response to Mr S's complaint.

What I've decided – and why

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

My role here is to decide whether DC have acted fairly towards Mr S.

As both Mr S and DG accepted my provisional decision, then my final decision remains unchanged from my provisional decision. On Mr S's request for the means of payment and a breakdown, that's for DG to take up when making the refund of premiums.

On DG's point about the decision, the wording was made to ensure the decision is legally binding on DG under the relevant legislation and to require DG to put things right by refunding the premiums to Mr S. My final decision wording will be amended to simply refer to what action I require DG to take.

My final decision

For the reasons set out above, my final decision is that I require Domestic & General Insurance Plc to:

- Refund the premiums paid under the policy from its inception to the date they cancelled the policy.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 12 December 2023.

Paul King
Ombudsman