

## The complaint

Mrs P complains Aviva Insurance Limited damaged her boiler after it was called out to fix a radiator under the terms of a home emergency policy.

Aviva Insurance Limited, as the underwriter of the insurance contract, is responsible for this complaint. HomeServe administers the contract. For ease I'll refer to both their actions as Aviva's actions. References to Aviva also includes their agents.

## What happened

On 11 October 2022, Mrs P took out a heating, drainage, plumbing and electrics HomeServe policy at a cost of £16 a month.

Mrs P contacted Aviva as a radiator was leaking. Under the policy, Aviva sent a plumber (who I'll call P) on 9 March 2023. Mrs P had bought a new radiator as she thought this is what would be needed. P checked he could replace the radiator with the one Mrs P had bought and was told this would be allowed, however, he didn't have enough time to change it that day. He noted the radiator was smaller than the one it was replacing and so the valves also needed to be changed. The notes also state P left the radiator extensions on site ready for the job to be completed and he'd booked for someone to return on the afternoon of 11 March.

Mrs P says no one turned up on 11 March, though her son waited at home, so she complained to Aviva about this.

P then returned to Mrs P's home on 13 March. P drained down the system and fitted the new radiator and valves. Afterwards he couldn't get the boiler to fire and so booked an emergency appointment for a heating engineer the next day. During the visit on 13 March, Mrs P says P was full of attitude as he strolled into her house, and she questioned him about his failure to book the appointment for 11 March, but he blamed the company. She also says before he drained the system, she told him she'd had problems with her boiler previously. P's notes say he was told this after he'd done the work.

Mrs P called Aviva and complained P shouldn't have drained down the system. A number of engineers then attended Mrs P's home to try to fix the heating system. For example, an engineer recommended a power flush – which wasn't covered under Mrs P's policy - as he said there was a blockage in the system and a water sample was taken to confirm this. In the meantime, Aviva wired up the immersion heater so this could be used for hot water on 17 March.

Aviva told Mrs P there was sludge in the system, and this wasn't covered under her policy. She wasn't happy with this so, on 21 March, Aviva arranged for an engineer, V, to give a second opinion. V deemed the boiler beyond economic repair (BER) and stated '*Heat exchanger blocked, flow and return pipes blocked, gas valve pulsing. AT risk due to not being able to test. turned off*'. And the water test results showed sludge was in the system.

Aviva told Mrs P the boiler was BER, and it wouldn't be making any contribution towards this as Mrs P was in the first 6 months of her policy with them when this was excluded. Mrs P wasn't happy with Aviva's decision the boiler was BER so she complained.

On 31 March, Mrs P arranged for her own engineer to attend, B, to replace her heating system. On 17 April, B gave Mrs P the following statement.

*'While attending the above property to change the boiler we realised that in the airing cupboard there was no air release above the pump position on the primary flow pipe where the h section is located. This resulted in a 3 foot hi airlock which I can only assume burnt out an alpha pump which we found on the floor in the a/c.*

*Further inspection we found a new pump which was a new ups3 pump but looked like it came from a combi boiler as it had a silver adapter between the pump head and the base of the original alpha pump. 2 install engineers and an electrician had never seen before. We decided to totally cut out the old h section put 2 new pump valves in and add an auto air valve in on the ov/cf section of the H when the boiler was filled up this would prevented air locks and will help in air release and not cause pumps to burn out and boiler overheating situations.'*

Mrs P told Aviva the whole issue was the inability of the system to remove the air whilst it was being repeatedly forced through. Therefore, had Aviva's engineers tried adding an air release valve (ARV), she wouldn't have had any of the issues she then faced. This led to her having to pay for a whole new heating system. Further, her biggest concern was P lied when he said she hadn't told him about having issues with her boiler *before* carrying out work.

Aviva didn't uphold Mrs P's complaint it had caused the problems with the boiler. However, it agreed its service had fallen below the level she was entitled to expect and offered £400 compensation for the distress caused as a result. It also agreed to reimburse the cost of the radiator, subject to a receipt for this.

Mrs P brought her complaint to this service as she didn't agree with Aviva's response. She said B found minimal sludge and only took 15 minutes to fit the ARV. She says the compensation offered doesn't cover the time off she had to take for the appointments nor the cost of replacing the boiler and electricity used in the meantime for the immersion and plug in heaters. Mrs P says she's vulnerable due to health issues which are exacerbated by the cold, and she spent a long period without heating as a result of P's actions.

An Investigator considered matters and issued two views. Initially the consumer was unhappy with the recommendations made and then the business. So, the complaint has now been passed to me for a decision.

I issued a provisional decision on this complaint on 14 August 2023 where I said the following.

*'I recognise I've summarised this complaint in far less detail than the parties and I've done so using my own words. I'm not going to respond to every single point made by the parties involved. No discourtesy is intended by this. Instead, I've focused on what I think are the key issues here. Our rules allow me to do this, and it reflects the informal nature of our service as a free alternative to the courts. If there's something I've not mentioned, it isn't because I've ignored it. I've given careful consideration to all the submissions made before arriving at my decision and I'm satisfied I don't need to comment on every individual argument to be able to reach what I consider to be a fair outcome.*

*Having done so, I must tell Mrs P I'm currently intending to come to a different outcome to the Investigators most recent view. This is because I'm satisfied the offer Aviva made in its final response letter was a fair outcome here. So, I'm not currently intending to uphold Mrs P's complaint in this matter. I'll explain why.*

*Firstly, I think its important to explain my role isn't to act as a technical expert on heating systems in a case such as this. Instead, I'm required to look at all the available evidence to decide if Aviva's actions were, more likely, the cause of the damaged boiler and, if so, what it must do to put things right.*

*Mrs P's policy entitles her to call Aviva if she has a problem with several matters in the home, including a leaking radiator. This is what she did in March 2023 and Aviva complied with the terms of the policy by sending someone – P - out to repair it.*

*Mrs P ultimately wanted a new radiator fitted and this is what P did. Setting aside for a moment the issues Mrs P says she faced with P's attitude and service which I've covered below, the key issue here stems from the fact that, after the system was drained down and filled back up, the boiler wouldn't work. Mrs P says this was a result of P's actions. Aviva says, having sought technical advice, it doesn't agree P's actions were incorrect nor would've led to the damage to Mrs P's heating system which caused it to stop working.*

*I've seen Aviva's technical advice which confirms if new valves are fitted when changing a radiator – as happened with Mrs P's new radiator due to the size difference - the whole system needs to be drained down. Therefore, I don't consider P acted unreasonably in draining the system down. I'm satisfied of this irrespective of whether P was told by Mrs P before he drained the system, she'd had prior problems with her boiler. I say this because her boiler had been fixed by Aviva and Mrs P says it was working perfectly prior to P's visit and had been for some time.*

*I've seen evidence to show the airlock was caused because the system was unable to remove air in it due to not having an ARV. And the evidence from B says he assumes it was the airlock which caused an alpha pump to burn out. Therefore, an ARV was added to prevent air locks and 'help in air release and not cause pumps to burn out and boiler overheating situations.' This suggests the work which will prevent the issue occurring again is the addition of an ARV, which had been missing before P's visit to address the leak in the radiator. So, it seems to me the airlock likely wouldn't have happened if the system had an ARV. And I don't consider Aviva is responsible for the system not having an ARV. Nor have I seen any evidence to show P – attending to repair a radiator leak – should've checked to see if there was an ARV before draining the system down or realised this was missing when trying to fire it back up again. So, I don't agree I could reasonably say Aviva is responsible for the lack of an ARV in Mrs P's system nor the airlock which formed after the system was filled back up.*

*Having said this, even if I thought Aviva was responsible for the creation of the airlock (which, to be clear, I don't), Mrs P would still need to show it was the airlock which caused the boiler to breakdown and be deemed BER. And I don't consider this has been demonstrated. I say this because V's report suggests there are a number of issues with the system including 'Heat exchanger blocked, flow and return pipes blocked, gas valve pulsing' as well as sludge in the system. And the reason the boiler was BER is because of the cost of the parts required to fix the issues identified by V. And I note evidence from Aviva's technical advisors says an air lock in the system wouldn't have caused the heat exchanger to become blocked, damaged the parts V identified needed replacing nor caused that much damage to the boiler. So, even if the airlock had been resolved by P or another engineer from Aviva, I'm persuaded the blockages and problems with other parts would've likely still been there and led to V deeming the boiler BER.*

*I appreciate Mrs P blames Aviva for the damage to her boiler but, based on everything I've seen, I am not persuaded this is something I can fairly and reasonably say Aviva is responsible for. It therefore follows Aviva isn't responsible for the impact the failed boiler had on Mrs P. Notwithstanding this, I note it arranged for her immersion heater to be wired up for hot water and also offered to see if it could give her additional electric heaters. In light of the findings above, this is likely more than I would've asked it to do.*

*the service given to Mrs P*

*The key facts here aren't in dispute. Aviva accepts the service fell below the standard Mrs P was entitled to expect. The key issue I must decide is whether the things it has agreed to do to put things right is fair and reasonable.*

*To do this, I need to distinguish between the distress and inconvenience Mrs P suffered because her radiator leaked and there was a subsequent failure of her boiler, which I'm satisfied Aviva isn't responsible for, with what Aviva did or failed to do that might've added to that distress. For example, the inconvenience of waiting for an engineer to attend on 9 March is a consequence of her radiator leaking rather than Aviva's poor service.*

*Aviva has offered Mrs P £400 for the service failings she's raised. This included the missed appointment on 11 March, the way Mrs P said she was treated by P and the poor communications where Mrs P had to call for updates and chase progress.*

*Having listened to calls Mrs P had with Aviva and also read her detailed submissions about this matter, I think it likely Mrs P was already exasperated with Aviva as a result of a previous matter which had occurred in December 2022 when she'd raised a complaint that she says had been resolved only a few weeks prior (which isn't the matter I'm currently deciding). And I think it likely this affected her interactions with Aviva as, almost from the outset, she was frustrated.*

*I recognise Mrs P is unhappy with the service in particular of P and says he lied about when he was told she'd had previous issues with her boiler – whether this was before or after he drained down the system. I've explained above why this doesn't affect my decision about whether Aviva is responsible for the damage to the boiler. Now I'm considering this in relation to the service provided. In Mrs P's email to Aviva of 13 March, she detailed the conversation from that day as follows:*

*'I open the door to let him in. No hello or acknowledgement so I say come in and off he goes.*

*As I'm shutting the door I realise he's not there and is already making his way upstairs.*

*I'm not impressed but I follow him up and show him where the new rad and the valve are. He says I know I came out Thursday. "oh so it's your fault no one turned up Saturday?"*

*I get. . . "Is that what they told you?"*

*I said, "yes they said you hadn't finalised the appointment."*

*To which he sneers, "oh so it's all my fault and they've blamed me.?"*

*I asked., "well what is the reason then?"*

*He replied, "they probably had too many jobs booked!!!!!"*

*So now I'm annoyed by his attitude and I told him, I am sick of this company and the poor attitudes of now several engineers. I pay you to do a job and its always a he said, she said load of bull.*

*How is this OK?*

*Anyways I'm now really annoyed and said just do what you need I'm going downstairs.*

*Thankfully my husband got home 10 mins later and after that I let him deal with it.'*

*Having carefully thought about this, I don't consider this shows Mrs P clearly explained to P she'd previously had problems with her heating before the boiler was drained down.*

*Notwithstanding this, Aviva accepted what Mrs P had said about her interaction with P and this formed part of the overall offer of compensation.*

*So, taking everything into account, I consider the compensation Aviva offered of £400 to be a fair and reasonable way to compensate Mrs P for the distress and inconvenience caused by the times when Aviva's service fell below the standard she was entitled to expect. I also note it has agreed to pay for the radiator subject to Mrs P sending it a receipt which I consider to be fair and reasonable.*

*Overall, while I accept Mrs P is disappointed with Aviva, I'm not currently persuaded it's done anything wrong to the extent I can fairly and reasonably hold it responsible for the failure of her boiler or require it to pay her further compensation.'*

Aviva responded to accept the provisional decision and confirmed it had nothing further to add.

Mrs P responded to the provisional decision. She didn't agree with it and made a number of comments on it including the below.

- I haven't been impartial in reviewing this matter and I've disregarded the evidence provided by Mrs P. Also, I ignored her physical and mental health in the decision.
- The former issue she had with Aviva has been used against her and shouldn't have been brought up as it's nothing to do with this complaint. Given what she'd faced, she may have appeared frustrated.
- She didn't write fully every conversation she had with P and feels her words have been used against her which further supports her view of a one-sided opinion.
- Aviva didn't offer to wire the immersion up – it was suggested by someone who attended and then Mrs P had to fight for this. Whilst Aviva offered heaters, she questions who could afford to run them in a financial energy crisis.
- The radiator valves didn't need replacing. If she'd been given the correct information about the risks of this, she wouldn't have chosen to have this done.
- She paid for a service which she didn't receive, and Aviva refused to give her a quotation when asked.
- Internet searches done show the agents appointed by Aviva blame everything on sludge and this seems convenient since they don't cover flushing. And online research about our service is alarming.

The matter has been returned to me for a decision.

### **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.

I appreciate Mrs P feels very strongly about her complaint. I'd like to reassure her I've carefully considered everything she's said and provided to this service before the provisional decision was issued and her comments in response to it. And, while I recognise she will be disappointed with this outcome, my decision not to uphold this complaint hasn't changed.

I say this because I'm not satisfied it's more likely Aviva has done anything wrong to the extent I can fairly and reasonably hold it responsible for the failure of her boiler or require it to pay her further compensation. This is for the reasons stated below and in my provisional decision. However, as stated previously, I consider the compensation Aviva offered of £400 to be a fair and reasonable way to compensate Mrs P for the distress and inconvenience caused by the times when Aviva's service fell below the standard she was entitled to expect. I also note it has agreed to pay for the radiator subject to Mrs P sending it a receipt which I consider to be fair and reasonable.

In response to some of the specific points raised by Mrs P, I respond as follows:

- Mrs P was unhappy with the service provided by Aviva. I therefore considered the call recordings I was provided. It's my view the call handlers were, at times, spoken to poorly with offensive language used by Mrs P at numerous points. As this started in the first call, I consider it reasonable to have referred to the prior complaint when discussing the service Mrs P was provided as I thought this was likely a contributory factor to the tone of these conversations. I also thought carefully about the conversation she had with P. In the email sent to Aviva, this conversation was sufficiently detailed and contemporaneous for me to find it to be persuasive evidence of what was likely said at the time. Even so, as I explained in the provisional decision, Aviva accepted what Mrs P had said about her interaction with P and this formed part of the overall offer of compensation.
- Whilst Aviva's agents may not have been consistent in its offer to wire up the immersion, it is something Aviva ultimately did and covered the costs of. In relation to the heaters offered by Aviva, I appreciate there would have been a running cost if Mrs P had accepted them. But this would have likely been offset – at least in part - by the fact the central heating wasn't in use. Even so, for the reasons explained above, this is still more than I would've asked it to do considering my findings.
- I accept it likely new valves needed to be fitted due to the size difference between the old and new radiator.
- I recognize Mrs P says her medical conditions were made worse by the cold she had to endure, and this situation significantly impacted her mental wellbeing. But, because I don't find Aviva was responsible for the failure of the boiler, this isn't something it can fairly be held responsible for.
- I recognize Mrs P feels some significant matters were ignored by me – such as in relation to B's report and her health – but these matters were referred to in the provisional decision. Further, in my provisional decision on this case, I said the following:

*'I recognise I've summarised this complaint in far less detail than the parties and I've done so using my own words. I'm not going to respond to every single point made by the parties involved. No discourtesy is intended by this. Instead, I've focused on what I think are the key issues here. Our rules allow me to do this, and it reflects the informal nature of our service as a free alternative to the courts. If there's something I've not mentioned, it isn't because I've ignored it. I've given careful consideration to all the submissions made before arriving at my decision and I'm satisfied I don't need to comment on every individual argument to be able to reach what I consider to be a fair outcome.'*

So, it's disappointing to read that Mrs P has taken, what I read to be, offence at my

provisional decision. I'm unable to do anything more than, again, offer reassurance to Mrs P that I have, in fact, considered everything in this case even where it hasn't been specifically referred to.

That said, it's important to explain we aren't technical experts. Instead, we rely on the evidence provided by both parties. Where there is conflicting information or expert evidence, we consider which evidence is more persuasive, on balance, to reach an outcome which is fair and reasonable in all the circumstances. That's what I've done here.

Finally, I'm sorry Mrs P feels I've been biased towards Aviva. We are independent of both parties and we're impartial. We look into complaints brought by consumers who think a financial business has done something wrong that's caused them to lose out. And we look at all of the evidence both parties send us to decide if we think a business has treated someone fairly. It's the nature of looking at complaints that one party will be unhappy with our findings.

### **My final decision**

For the reasons explained above and in my provisional decision, my final decision is that I don't uphold Mrs P's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 11 October 2023.

Rebecca Ellis  
**Ombudsman**