

The complaint

Mr U has complained about the service provided by Evolution Insurance Company Limited (Evolution) when dealing with repairs to his boiler and the length of time this took.

References to Evolution include its agents and claims managers.

I've previously issued a provisional decision in this case in response to which I received additional comments from Evolution and from Mr U. I've considered these and will refer to them below as necessary.

What happened

Mr U has a home emergency insurance policy with Evolution which includes boiler repairs. He took this policy out on 11 October 2023. On 20 December 2023 he contacted Evolution to report a leak originating from the bottom of his boiler. His boiler was 12 years old.

An engineer from Evolution attended on 21 December. Mr U says that during the repair attempt, the leak became worse and escaping water rendered several boiler components ineffective. He says the engineer attempted to dry some of the components with a hairdryer but after he left the boiler ceased functioning correctly and hot water was intermittent. This was a particular concern for Mr U as the problem arose in December and there are family members in his household who are vulnerable and who required warmth and access to warm showers.

An engineer visited again on 23 December 2023 and diagnosed that the heat exchanger needed to be replaced. Mr U was quoted £246.43 to repair and replace this. Mr U says the engineer indicated that this would be covered by his policy but would have to be ordered. However Evolution's technical team subsequently said that this part wasn't covered, assuming it was blocked, and blockage by limescale or sludge is excluded from cover. It was subsequently accepted that there wasn't a problem with the heat exchanger.

On 24 December, Mr U contacted Evolution again as the original leak was continuing. He says there was a lack of awareness by Evolution's agent about his issue and another engineer wasn't available to attend until 26 December. Mr U says this delay in dealing promptly with his concern about a lack of heating for his household had a significant impact on the vulnerable members of his family, causing "immense distress and anxiety".

Mr U says that despite having been given assurances on 24 December that an engineer would visit him on 26 December, no engineer was assigned to visit him. He was told that the next available appointment would be on 29 December as Evolution wanted to send a different engineer. Mr U says this was a further delay and he raised a complaint with Evolution on 26 December.

An engineer attended on 29 December and confirmed that the original leak was persisting. He identified that a nut had been overtightened which had led to a leak. Mr U concluded that the engineer who had attended on 21 December had overtightened this nut which had caused the original leak to worsen on that date. The engineer also identified that the heat

exchanger didn't in fact need replacing at this point as there was no sludge or limescale evident and that the intermittent hot water issue was due to an issue with a flow switch which needed to be replaced. He didn't identify if this switch had been damaged by the increased water leak during the engineer's visit on 21 December.

Evolution emailed Mr U later on 29 December to inform him that following the engineer's visit and his diagnosis that a bypass valve assembly, a water seal kit and a flow switch needed to be replaced, his boiler had been declared beyond economical repair (BER). It valued the boiler at £230.18 after depreciation and gave the BER limit as £250. It quoted the cost of repairs to be in excess of this at £265.81.

Evolution provided a breakdown of the repair costs which included labour of £153 for 1.5 hours which Mr U considers was inflated in order to push the repair costs beyond the BER limit. He was informed that his policy had been cancelled insofar as it related to his boiler, and that as his boiler was BER his options were to accept Evolution's quote for the required repairs, but he would have to pay the cost, or he could take advantage of Evolution's boiler replacement terms, or alternatively consider other options such as contacting a local tradesman for a repair.

Evolution says it calculates depreciation at 10% a year from the date of manufacture. Mr U disputes this method of calculation and also says that there is no explanation in his policy as to how a boiler's value is assessed in the event of a claim.

Mr U informed Evolution that two of the three items mentioned in the quotation had been damaged by Evolution's engineer at his previous visit. After review, Evolution said it authorised the valve assembly and the water seal kit but if a flow switch was subsequently required then the boiler would be declared as BER.

Mr U maintains that the two issues with his boiler – the leak, and the problem with the flow switch – are separate issues, whereas Evolution has aggregated the claim for the leak and that for the flow switch, thereby contributing to the assessment that the boiler is BER.

On 5 January 2024 an engineer attended with the part to repair the leak but not a replacement flow switch. When fitting this part to an isolation valve, the valve was damaged. Evolution agreed to cover the cost of the damaged isolation valve. A replacement valve was obtained but when fitting this, this valve was also damaged. Evolution then informed Mr U that the boiler was BER due to the need for additional parts. Mr U argues that no additional parts were involved and only the same parts previously agreed were required for the repair. If there was an issue with fitting those parts this arose either from Evolution's workmanship or a manufacturing flaw in those parts.

On 9 January, Evolution asked Mr U if its field manager could visit his property to see if any further parts were recommended. Mr U didn't consider that another visit was necessary as the engineer had already provided a report which had not confirmed what further parts were necessary, and it said that the parts and labour already used had led to the boiler being declared BER so any further parts wouldn't be covered.

Evolution also stated that none of the engineers reported any damage caused to the parts by the initial engineer or any water damage, so it said it was unable to uphold or investigate this matter without further evidence.

Mr U has also complained that comments made by the engineer to Mr U's wife were inappropriate, sexist, undermining and belittled her independence and were derogatory of others, which made him and his wife feel uncomfortable.

As Mr U and his family were suffering considerable distress as a consequence of the time it was taking Evolution to resolve their boiler problem, Mr U decided to purchase a new boiler at a cost of £2,742 as well as an electric heater for his children's bedroom costing £115.

Mr U wasn't satisfied with Evolution's response to his complaint and brought his complaint to this service. Our investigator's view was that Evolution didn't act unfairly in deeming Mr U's boiler BER but could've handled Mr U's complaint better. She accepted that Evolution's engineer had made inappropriate comments which made Mr U and his family uncomfortable and would've been distressing. She considered that Evolution's offer to refund to Mr U one month's premium of £17.09 should be increased to £150 to acknowledge the distress and inconvenience caused to him as a result of the overall poor service provided to him.

Mr U didn't agree with our investigator's assessment of his complaint and requested that it be referred to an ombudsman. As my initial view differed from that of our investigator, I issued a provisional decision. Having taken into account further comments from Mr U and from Evolution in response to this, I'm now issuing my final 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.

In coming to my decision, I've taken into account the information that I've received from both Mr U and from Evolution both initially and in response to my provisional decision.

The issues with the repair of Mr U's boiler started with the report of a leak on 20 December 2023. Evolution attended the following day. Mr U says that during the course of the attempted repair by Evolution's engineer, the leak became considerably worse and was likely to have been responsible for damage to other parts within the boiler which led to the subsequent problem with intermittent heating. Although there was an initial belief that the intermittent heating problem was due to a blocked heat exchanger, this proved to be incorrect, and the fault was attributed to a faulty flow switch.

In response to my provisional decision, Mr U provided video clips of the leak from his boiler, which show an initially very small leak becoming considerably worse, requiring a bucket to catch the water. However they do not show the leak behaving in a way that was likely to cause damage to other parts of the boiler, specifically the flow switch. None of Evolution's engineers reported any damage caused to other parts of the boiler by the initial engineer.

I remain of the view that there is insufficient evidence to support a connection between the leak and the faulty flow switch.

In response to my provisional decision, Evolution accepted that the intermittent heating issue was not present when the leak was first reported but said that it became apparent once the engineer completed work to resolve the leak. It submits that the intermittent heating issue was simply a continuation of the leak that was originally reported by Mr U, therefore the works required were connected. For that reason, the policy exclusion for pre-existing faults applied to deny cover to Mr U. However it says that despite this, and to reduce detriment to Mr U, it attempted to complete the repair and also persisted when the boiler was deemed to be BER, so therefore went above and beyond its contractual obligations to assist Mr U.

I'm not persuaded by Evolution's statement that the intermittent heating issue was simply a continuation of the leak as it hasn't in my view provided any evidence as to how they are connected. Its own engineer who attended on 29 December didn't identify if the flow switch

had been damaged by the increased water leak following the engineer's visit on 21 December.

Mr U has complained about damage to the MDF boxing around his boiler. I've reviewed Mr U's correspondence and he says that an MDF boxing-in panel suffered water damage during the initial repair on 21 December 21. I've seen no evidence of the extent of this so I'm not able to form a view as to whether it is likely to have pre-existed the first engineer's visit and whether it supports Evolution's argument that the leak was pre-existing as at the date Mr U took out his policy.

I've also considered the reasonableness of Evolution's conclusion that the boiler was beyond economical repair. Mr U's policy defines this and refers to the fact that boilers depreciate over time.

Evolution says that it calculates whether a boiler is beyond economical repair in accordance with an industry standard formula to calculate the BER value, using the boilers purchase value, age, make and model and applying a 10% depreciation on this value for each year that the boiler has been in use. The value of the boiler therefore decreases by 10% each year the boiler increases in age. Applying this methodology to calculate the current market value of Mr U's 12-year-old boiler, assessed as originally costing £815, it stated the BER figure to be £250, slightly higher than the initial value with 10% annual depreciation applied.

I don't consider that Evolution's method of calculation of a boiler's value over time is unreasonable and I wouldn't expect a policy to go into detail as to precisely how the figure beyond which a repair is uneconomical is calculated. This detail isn't something that we would expect an insurer to reasonably provide at the point of sale. If Mr U considered that this information would've influenced his decision whether or not to take out the policy, he could've made further enquiry before completing his purchase, or within the cooling off period once he'd had the opportunity to consider the policy terms and conditions.

I now have to consider whether Evolution acted fairly and reasonably in aggregating the cost of repairing the leak and the replacement of the flow switch, thereby arriving at a figure exceeding the BER value and entitling it to treat the boiler as BER.

Evolution maintains that both faults relate to the initial claim as they occurred within 14 days of each other. It cites the General Condition that "*If we've carried out a repair and the emergency or breakdown occurs again within 14 days, we'll arrange a further engineer visit without charge.*" I'm not persuaded that Evolution can rely on this as the faults were different.

In my view, if the cost of repairing the leak and the flow switch were to be regarded as one claim, it would be reasonable for Evolution to have said that as the total cost would be £292.65 (a figure which it subsequently provided), this would exceed the BER threshold and therefore it would not be required to undertake any of the necessary work unless Mr U paid for it.

Mr U argues that they are separate claims, each of which should be repaired subject to their own BER limit. He also argues that the amount of the claim should not be increased by the cost of parts damaged by Evolution's engineers.

Evolution has stated that "*...we can confirm that when determining if a boiler is deemed BER the repair costs are reviewed for each individual repair and not for the total costs of the repairs for the whole claim.*"

Evolution has also said that an external leak below the boiler could not have caused damage to the flow switch which is internal to the boiler. It went on to say, with reference to the flow switch and causation, "*We can confirm that boilers/parts develop faults regularly. This is a common occurrence*". This supports my view that the leak issue and the intermittent heating issue are unconnected and is at odds with Evolution's view that they are.

In my view the leak issue and the flow switch issue are not related and should be subject to separate BER assessments. According to Evolution's later breakdown of costs, the cost of the flow switch was £28.02 to which some labour charge should be added. At its quoted labour rate of £72 per hour, I would estimate a cost to supply and fit this part to be around £100 - within the BER limit of £250. If this cost were to be deducted from the total repair cost including the leak quoted by Evolution (£292.65), the cost of repairing the leak would also be under the BER threshold of £250.

However despite having deemed Mr U's boiler to be BER (on the basis of a repair cost including replacing the flow switch exceeding the BER value), Evolution continued with efforts to address the leak and replaced the necessary parts as a gesture of goodwill. This led to claims being raised about how that repair was handled and whether there was a manufacturing defect in the part that required a number of attempts to fit it and further replacement parts needed, or whether this was a workmanship issue. I don't consider this relevant to my assessment.

I can understand that Mr U would've been confused by being told that his boiler was BER and yet Evolution was attempting to repair the leak but maintaining that it wouldn't repair the flow switch.

I consider that although Evolution continued to do what it could to repair Mr U's leak, it did not act fairly towards Mr U in not replacing the flow switch to repair his heating, relying on its decision that the boiler was BER on the basis of an aggregation of the repair costs of the two issues. However Mr U could've had a third-party engineer replace the flow switch for no more than £100 as he describes Evolution's labour costs as "exorbitant". But Mr U decided to replace his boiler as he says he was unable to tolerate any further delay.

I acknowledge the stress and upset this boiler incident has had on Mr U and his family, and how concerned Mr U was about his family's welfare particularly due to the time of year. I don't consider that Mr U's complaint was handled as well as it could've been. He was left with no clarity as to the effect of its BER decision on the repair of the leak and the replacement of the flow switch, a decision I consider to be flawed. He had experienced a booking not taking place when scheduled and conflicting information about booking dates. There had been ineffective and delayed repairs (whether due to poor workmanship or manufacturing issues) when a timely repair was required due to the vulnerability of family members, lack of clarification about additional spare parts required, and failures in communication about the flow switch repair. I also accept that Mr U and his wife sustained upset by comments made by one of Evolution's engineers.

My final decision is that Evolution has not acted fairly towards Mr U in handling his boiler issues and I consider that this justifies compensation greater than the one-month's premium that it has already offered. In my view compensation of £350 would be appropriate to reflect the inconvenience and significant upset to Mr U and his family.

My final decision

For the reasons I've given above, I'm upholding Mr U's complaint.

I require Evolution Insurance Company Limited to pay Mr U compensation of £350.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr U to accept or reject my decision before 1 October 2024.

Nigel Bremner
Ombudsman