

The complaint

Mrs H and Mr H complain about Acasta European Insurance Company Limited (“AEIC”) and the decision to decline the claim they made on their Guarantee Insurance policy.

Mrs H has acted as the main representative during the claim and complaint process. So, for ease of reference, I will refer to any actions taken, or comments made, by either Mrs H or Mr H as “Mrs H” throughout the decision where appropriate.

What happened

The claim and complaint circumstances are well known to both parties. So, I don’t intend to list them chronologically in detail. But to summarise, in February 2022, Mrs H had an air source heat pump (“ASHP”) installed by a supplier, who I’ll refer to as “A”. Upon completion of this installation, Mrs H received a Guarantee Insurance policy, valid for two years from that date that was intended to cover Mrs H for faults to the ASHP if A ceased trading. A ceased trading in December 2022.

In December 2023, Mrs H contacted AEIC to make a claim on this policy, as her ASHP developed a fault which meant it was unable to supply heating and hot water to her home. And Mrs H provided a report compiled by the ASHP manufacturer, who I’ll refer to as “G”, who stated their belief the ASHP had been installed incorrectly.

But AEIC declined the claim, stating their belief that it was the additional installation of under floor heating (“UFH”) in November 2023 that likely led to the fault with the ASHP, not the installation of the ASHP itself. Mrs H was unhappy about this, so she raised a complaint.

AEIC responded to this complaint and didn’t uphold it, explaining why they felt the claim decline was a fair one. Mrs H remained unhappy with this response, so she referred her complaint to us.

Our investigator looked into the complaint and upheld it. They thought AEIC had acted unfairly when declining the claim, considering G’s report which stated the ASHP had been installed incorrectly in 2022.

So, after Mrs H provided an invoice to show she had already paid for the repair works to be completed, our investigator recommended AEIC refund Mrs H the full cost of these works, plus 8% simple interest from the date of payment to date of refund. And they recommended AEIC pay Mrs H and Mr H an additional £400 compensation to recognise the distress and inconvenience they had been caused by the claim decline.

AEIC didn’t agree, maintaining their belief the ASHP was operating effectively until the UFH was installed. So, they felt this was the cause of the fault and because of this, they maintained the claim wasn’t one they should accept. As AEIC didn’t agree, the complaint has been passed 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.

Having done so, I'm upholding the complaint for broadly the same reasons as the investigator. I've focused my comments on what I think is relevant. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

I note it's not in dispute that Mrs H held a valid Guarantee Insurance policy that she was able to claim on, as the supplier of her ASHP ceased trading in December 2022. And the claim she was made was within the two-year time limit set out within the policy.

So, I've thought about whether I think AEIC acted fairly when declining the claim, considering all the information and evidence available to me, and AEIC at the time they made this decision. And where necessary, I've made my decision based on the balance of probabilities and what I think most likely caused the fault to her ASHP.

In this situation, I've seen Mrs H supplied a report, compiled by G. As G manufactured the ASHP, I think they were a suitably qualified expert to make a determination on what they felt caused the fault to Mrs H's ASHP.

G's report makes it clear that they felt there was more than one issue with the way the ASHP was installed. So, in line with our service's approach, I would expect AEIC to rely upon the contents of this report, and the opinion of the expert in this situation, unless they had a similar standard of evidence to dispute it.

In this situation, I don't think that's the case. Instead, I can see ASHP have made an assumption that the installation of the UFH led to the fault with the ASHP, considering the proximity of this installation to the claim Mrs H made.

While I recognise there was a proximity in terms of time, I must also take into consideration Mrs H's testimony and assertion that the ASHP was able to provide both heating and hot water to her home for a short period of time. And alongside this, I've seen A's contract, and marketing material, which confirms that the ASHP should be able to support the provision of heating and hot water, specifically referring to the ability to support UFH systems.

I think G's report makes it clear the ASHP was intended to provide both heating and hot water, considering the parts it felt hadn't been installed correctly, or at all. And, that they felt this would've been the case had A installed the ASHP as they would've expected.

So, considering the policy Mrs H held agreed to "*indemnify the holder of {the policy} in the event of the supplier under guarantee being able to undertake any necessary remedial works under the terms of its own long term guarantee*", I feel it's most likely A would've been expected to complete this rectification work had they been trading, as it was most likely caused by the way they installed it. Because of this, I think AEIC should have accepted the claim. And, that they acted unfairly by not doing so.

I appreciate AEIC may not agree. And I want to reassure AEIC I've thought about all the reasons they put forward for the decline, including reference to Mrs H signing the registration form in February 2022. But crucially, Mrs H would've signed this without knowing the ASHP hadn't be installed correctly. So, I don't think this has a material impact on the claim, or the

decision AEIC reached. As I think AEIC acted unfairly when declining the claim, I've then turned to what I think AEIC should do to put things right.

Putting things right

When thinking about what AEIC should do to put things right, any award or direction I make is intended to place Mrs H and Mr H back in the position they would've been in, had AEIC acted fairly in the first place.

In this situation, had AEIC acted fairly, I think they would've accepted the claim and arranged for the repair works required to Mrs H's ASHP to be completed. Had they done so, Mrs H wouldn't have needed to incur the costs of the repairs herself, which totalled £3,017.76. So, to place Mrs H back in the position she should've been, I'm directing AEIC to refund Mrs H this amount, plus 8% simple interest from the date she made this payment to the date of refund, to recognise the length of time she was without access to these funds.

Our investigator also recommended AEIC pay Mrs H and Mr H a compensatory payment of £400, to recognise the distress and inconvenience they were caused by AEIC's claim decline. Having considered this recommendation, I think it's a fair one that falls in line with our service's approach and what I would've directed, had it not already been put forward.

I think it is a payment that fairly recognises the time and effort Mrs H and Mr H have spent needing to engage with both AEIC and G in their attempts to overturn AEIC's erroneous decision to decline the claim. And that it fairly compensates them for the time they were living in their property with a faulty ASHP that wasn't able to provide heating to their home effectively, and the discomfort this would no doubt have caused. So, this is a payment I am now directing AEIC to make.

My final decision

For the reasons outlined above, I uphold Mrs H and Mr H's complaint about Acasta European Insurance Company Limited and I direct them to take the following action:

- Refund Mrs H and Mr H the £3,017.76 they paid to repair the ASHP themselves;
- Pay 8% simple interest on this amount from the date Mrs H and Mr H made payment to the date of refund; and
- Pay Mrs H and Mr H a total of £400 compensation to recognise the distress and inconvenience they were caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H and Mr H to accept or reject my decision before 17 December 2024.

Josh Haskey
Ombudsman