

## **The complaint**

Mr M and Mrs M complain about The National Farmers' Union Mutual Insurance Society Limited (NFU) handling of a claim they made under their buildings insurance. Any references to NFU also include its agents.

## **What happened**

In August 2020, the basement of Mr M and Mrs M's property was flooded, which caused substantial damage. Mr M and Mrs M made a claim to NFU who appointed a loss adjuster to inspect the damage.

The loss adjuster considered the recommendations from the expert Mr M and Mrs M wanted to carry out the repairs. Mr M and Mrs M's expert report identified the old waterproofing system that had been in place before the flood no longer complied with Building Regulations.

The loss adjuster noted a tanking system could be prudent, but NFU wasn't prepared to pay for the proposed tanking works. It considered doing so would be putting Mr M and Mrs M in a better position than they were in before the claim. NFU's loss adjuster said it wasn't required to put the tanking system in to comply with the British Standards identified by Mr M and Mrs M's expert and preferred to use a waterproofing method similar to that previously in place.

Concerned this approach would fail again, Mr M and Mrs M complained to NFU. They said to put things right they wanted the full value of the claim paid, and to be reimbursed for the cost of the tanking system installed. In February 2022, NFU responded to Mr M and Mrs M's complaint. The final response letter said while British Standards were considered to be best practice, they're recommendations, not legislation. And it was NFU's view that adding tanking to the property would be betterment. As there was no cover within the policy that provided for tanking, it would not settle the claim in the way Mr M and Mrs M asked.

Unhappy with NFU's response, Mr M and Mrs M referred their complaint to this service. It was considered by one of our investigators who said that in her view, NFU needed to carry out a lasting and effective repair, and to do so, it needed to tank the property. As NFU didn't agree, this matter has been passed to me.

## **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've reviewed all points made but given the informal nature of this service, my decision focuses on those points I considered most relevant. I trust neither side will consider this a discourtesy, but instead a reflection of our informal nature.

At the heart of NFU's argument is the property tanking system recommended by Mr M and Mrs M's expert. It says it's not representative of the previous cementitious waterproofing system in place before the flood occurred. It therefore considers including tanking as part of

the claim settlement would put Mr M and Mrs M in a better position than they were in before the flood occurred, something for which the policy doesn't provide.

The first issue I've considered is that the property did have a waterproofing system in place before the flood occurred. However, the key argument put forward by Mr M and Mrs M is replacing the existing waterproofing system with something on a like-for-like basis won't necessarily provide for a lasting and effective repair. NFU considered it should be able to replace the existing waterproofing by taking a similar approach to what was already there. And I note that after some time, the original waterproofing system eventually failed, leading to the claim.

The report provided by Mr M and Mrs M's expert (who went on to complete the repairs including tanking works) set out in detail why the repair they proposed would be lasting and effective. And I note NFU's loss adjuster stated in their report in January 2021 that installing a tanking system would be prudent. Mr M and Mrs M also sought advice from a Building Control Officer at their Local Authority, who recommended following the advice of their expert because the current waterproofing system had already been proven to fail.

I acknowledge the tanking system recommended and installed by Mr M and Mrs M's contractor isn't on a like-for-like basis with the system in place before the flood. However, NFU haven't provided any evidence to show any repair recommended by their loss adjuster would have been sufficient to provide a lasting and effective repair.

I say this having considered the similar feedback from Mr M and Mrs M's expert and the Building Officer from the Local Authority. Both indicate a replacement waterproofing system along the same lines as the one that failed would be likely to fail again. These opinions were sought independently of each other and, given their similarity in responses, I consider them to be persuasive.

I've considered the British Standards referenced by Mr M and Mrs M's contractor. I've also considered NFU's counter argument the Standards were guidance and recommendations of best practice, not a legislation that needed to be adhered to. And having done so, it's clear this isn't legislation, but does set out that it is a set of guidelines that can be followed when designing an effective waterproofing system. While NFU wasn't required to take account of these when deciding how to carry out a repair, I think the consideration of this Standard by Mr M and Mrs M's expert is also persuasive in supporting their recommendation to tank the property.

In summary, I'm satisfied in the circumstances of this case the evidence provided supports tanking the property, rather than carrying out a repair similar to the original waterproofing system, would provide for a lasting and effective repair. I appreciate Mr M and Mrs M have had these works carried out.

### **Putting things right**

To put things right, Mr M and Mrs M should supply copies of their invoices to NFU, and NFU should reimburse Mr M and Mrs M for any costs they've incurred relating to the tanking that haven't been settled as part of the claim, along with simple interest at 8%.

### **My final decision**

I uphold this complaint. Upon receipt of evidence of payment, The National Farmers' Union Mutual Insurance Society Limited should:

- Reimburse Mr M and Mrs M the amount they paid for the tanking works
- Simple interest at 8% from the date of payment until the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M and Mrs M to accept or reject my decision before 24 October 2022.

If The National Farmers' Union Mutual Insurance Society Limited considers that it's required by HM Revenue & Customs to deduct income tax from any interest paid, it should tell Mr M and Mrs M how much it's taken off. If requested, NFU should also provide Mr M and Mrs M with a certificate showing the amount deducted, so he can reclaim it from HM Revenue & Customs if appropriate.

Emma Hawkins  
**Ombudsman**