

## **The complaint**

Ms N – a director of company N – complains about the level of service received from The National Farmers’ Union Mutual Insurance Society Limited (“NFU”) under its business insurance policy.

Reference to NFU include their agents.

## **What happened**

The background to the complaint is known to all parties so I won’t repeat it here in detail. In my decision I’ll mainly focus on giving the reasons for reaching the outcome I have.

In summary, Ms N took out business insurance on behalf of N. In 2019, she added engineering insurance and inspection. This meant N was covered for breakdown of selected items of machinery, and inspections to meet statutory requirements.

Ms N says NFU breached N’s policy conditions by failing to carry out an inspection of the boiler in 2019. She says it later broke down due to a manufacturer defect. But, as an inspection hadn’t taken place, the manufacturer declined to assist under the warranty. Ms N also says N suffered significant losses because of the boiler breakdown, and NFU’s failure to carry out the inspection when they should have.

Ms N also says she was given wrong information by NFU when she contacted them to book the inspection. She says she was told she didn’t need an inspector to attend whilst the boiler was serviced. NFU disputes this aspect.

NFU says there was an oversight. Their agent should have called Ms N to arrange the inspection but failed to do so. They say, however, Ms N didn’t state when the inspection was due, when she added engineering insurance and inspection to N’s policy. And in any event, it’s unlikely N would have made a successful claim under the warranty. They paid N £200 compensation by way of an apology for the way things were handled.

NFU also say they incurred over £3,000 when working on the boiler, and the inspection eventually took place around March 2020. They told Ms N she could raise a claim for the boiler breakdown on N’s behalf, which she didn’t want to do at that stage for several reasons. As Ms N thought NFU treated N unfairly, she brought a complaint to our service.

Our investigator didn’t recommend the complaint be upheld. Whilst he felt NFU could have handled things better, the policy says N was responsible for complying with statutory requirements for inspection – which N didn’t do. And NFU wasn’t responsible for N’s consequential losses because the lack of an inspection wasn’t the cause of this.

N didn’t agree and asked for an ombudsman to decide, so the case was 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.

There's a great deal of correspondence on this complaint and several issues have been raised. I will, however, focus on the issues which are – in my opinion – relevant to reaching a fair outcome to this complaint. That isn't meant as a discourtesy, it simply reflects the informal nature of our service.

Before I set out my findings, I must explain I haven't considered the concerns raised regarding how N's subsequent claim was handled and settled. NFU responded to N's complaint in July 2020 regarding the lack of inspection carried out in 2019, and the impact Ms N says this had on N. They explained N could raise a claim for the boiler breakdown which N later went on to do. This was settled after NFU's July 2020 final response letter answering this complaint.

As such, should N remain unhappy about the way NFU handled and settled the claim, Ms N would need to raise a separate complaint with NFU on N's behalf. As explained above, I've only considered the lack of inspection in 2019 and the impact Ms N says this had on N.

#### *The policy terms*

Ms N says she added engineering insurance and inspection to N's policy to ensure the boiler and pressurised vessels were inspected annually to comply with statutory requirements. She says when the boiler inspection was due, she contacted NFU, but was told an inspector didn't need to attend. Ms N says she challenged this several times but was told the same.

It's disputed whether Ms N was given this wrong information. Ms N says it happened during calls to NFU's agent on their mobile – which aren't recorded. NFU says they've been unable to locate any recordings. Having considered this point, I've no reason to doubt Ms N's testimony she was given incorrect information. Nor have I seen any supporting evidence that undermines it. I say this because the agent says they cannot recall this – whereas I'm more persuaded by Ms N's consistent testimony on this aspect.

Importantly, however, Ms N says this information surprised her, as she says the previous insurer N held this cover with always insisted on an inspector attending during a service. So, whilst Ms N says she was told by NFU this didn't need to happen, I think Ms N ought to have been reasonably aware that wasn't the case – based on her awareness of N's statutory requirements, and her experiences with N's previous insurer.

I've also considered the policy terms which say NFU will undertake the inspection during the period of insurance. However, they also state the following:

#### ***'Special Conditions***

...

***3. Responsibility for ensuring compliance with statutory requirements for inspection and/or testing of PLANT rests with YOU. YOU are responsible for identifying which items require inspection and for preparing, at YOUR own expense, such items for inspection.'***

This means it was N's responsibility for ensuring compliance with statutory requirements for inspection. So, even in the most likely event Ms N was provided with incorrect information here, I'm satisfied the onus was on N to ensure it complied with statutory requirements regarding inspection.

On balance, I think Ms N was most likely aware of these requirements being a company

director and given her previous experience with another insurer. She had also emailed NFU to confirm her engineer would arrange for the inspection to take place once contacted. Where I think NFU let N down was their failure to contact Ms N to arrange the inspection. However, with that said, Ms N – on behalf of N – should have been reasonably aware of the statutory requirements when the policy amendment was made in July 2019. I also haven't seen strong supporting evidence that demonstrates NFU were made aware when the inspection was due – which I understand was around the time N changed this cover over to NFU.

In any event, Ms N says the boiler failed due to a manufacturer defect. And the manufacturer declined to assist as no valid inspection certificate was in place. So, I've gone on to consider whether I'm satisfied – had the inspection taken place when Ms N says it should have – this would have made a material difference to the outcome of this complaint.

#### *Whether NFU prejudiced N's position*

Ms N said within an email in March 2020 the manufacturer would have declined to assist N initially due to scale, but this wouldn't have been correct. She thinks the breakdown occurred as the result of a manufacturer defect.

Around March 2020, NFU said it wasn't possible to conclusively determine the root cause of the boiler breakdown. But said, given its age, it was unlikely due to a defect associated with how it was manufactured in 2015. Further, they said the faults wouldn't have been detected during an inspection given where they were occurring, and they weren't identified during the 2019 service in any event. They say the failure to inspect the boiler when Ms N says it should have taken place had no bearing on N's ability to pursue a claim against the manufacturer, as Ms N would have held previous service and inspection records – including the inspection undertaken by NFU, in March 2020.

So, whilst the evidence suggests the manufacturer didn't assist due to there being no valid inspection certificate, I haven't seen strong supporting evidence that persuades me the manufacturer would have accepted a manufacturing defect caused the breakdown – had the inspection taken place when N says it should have. And therefore, the manufacturer would have completed repairs and covered all N's consequential losses under the warranty.

#### *N's other financial losses*

Ms N has submitted costs on behalf of N she thinks NFU are responsible for reimbursing. Ms N says these are consequential losses resulting from the boiler breakdown. But I don't agree NFU are responsible for reimbursing these costs. I say this because I'm not satisfied NFU were responsible for the failure of the boiler – because they didn't cause it to breakdown. Nor do I find their failure to inspect the boiler when Ms N says it should have happened resulted in the faults occurring. So, whilst I'm sorry to disappoint N, I won't be directing NFU to reimburse these consequential losses following the boiler breakdown – because NFU weren't responsible for causing it to breakdown.

#### *Summary*

Overall, I find NFU let N down when failing to make contact to arrange the inspection. However, the policy says N was responsible for ensuring compliance with statutory requirements – not NFU.

Further, even in the most likely event that Ms N was given incorrect information, the evidence suggests – in my view – Ms N ought to have been reasonably aware of N's statutory requirements in any event. And, importantly, I haven't been persuaded the manufacturer would have resolved both the boiler breakdown and N's consequential losses if the inspection took place when Ms N says it should have.

NFU paid N £200 compensation by way of an apology given the way things were handled. Overall, I can't agree NFU failed to acknowledge their mistake, or didn't take reasonable steps to put matters right. So, I won't be directing NFU to do anything further.

### **My final decision**

For the reasons I've given above, I don't uphold it.

Under the rules of the Financial Ombudsman Service, I'm required to ask N to accept or reject my decision before 12 September 2022.

Liam Hickey  
**Ombudsman**