

The complaint

Miss F complains about The National Farmers' Union Mutual Insurance Society Limited (NFU) cancelling her horse and rider insurance policy following a claim made for treatment to her horse.

References to NFU include their agents who administer the policy.

What happened

Miss F had a horse covered by a horse and rider insurance policy with NFU. In December 2019 the horse showed a drop in performance and Miss F discussed the symptoms and the horse's condition with her vet. Based on the discussion the vet diagnosed the condition as likely to be Equine Gastric Ulcer Syndrome (EGUS). The vet recommended a course of treatment and subsequently raised a claim for the cost of treatment with NFU, including the horse's medical history as well as invoices supporting the cost of treatment.

NFU considered the claim and appointed a loss adjuster (C) to validate the claim. From the horse's medical history, C concluded the horse had previously received treatment for EGUS in 2018 (though this was before Miss F added the horse to her policy in February 2019). C also interviewed Miss F and the vet as part of their validation. C then wrote to Miss F in March 2020 as they thought the previous treatment meant there was a pre-existing condition (which should have been disclosed when the subsequent claim was made). They asked Miss F to answer a series of questions arising from the investigation. Miss F replied in April 2020 saying she was withdrawing her claim. NFU replied to Miss F acknowledging the claim's withdrawal - but saying their investigation of the claim would continue.

NFU then wrote to Miss F in January 2021, saying they considered the claim was fraudulent as Miss F had said (when interviewed by C) that the horse hadn't previously had EGUS or treatment for the condition. However, given the treatment for EGUS in 2018, NFU considered Miss F had misrepresented the facts when making the 2019 claim. Based on this, NFU said they were avoiding Miss F's policy with effect from December 2019 (the date of the claim). They also said they were entitled to cancel other policies held by Miss F with them (a second horse and rider policy as well as a home insurance policy). NFU also said they reserved the right to recover any associated costs incurred under the claim, had it not been for the misrepresentation. NFU estimated those costs to be £5,291 to that point.

Unhappy at NFU treating her claim as fraudulent, cancelling her policies and seeking recovery of costs incurred Miss F complained to NFU. She said NFU could have simply declined her claim rather than investigating it (and incurring additional costs). She also said the EGUS treated in 2018 was a secondary condition, whereas in 2019 it was the primary condition. As such, the two conditions were not linked. She was also unhappy at the time taken by NFU to complete their investigations and that they hadn't communicated with her during the period.

NFU upheld her complaint in part. In their final response they said Miss F had made a misrepresentation (when making the claim for treatment in 2019) when she said her horse hadn't suffered from EGUS before. While the 2018 treatment was for EGUS as a secondary

condition and the 2019 claim as a primary condition, they saw the latter as being for a pre-existing condition (and so should have been declared). NFU confirmed their decision to cancel Miss F's horse and rider policy in January 2021 on the grounds that she'd made a reckless misrepresentation. Her other policies were cancelled on the grounds she'd made a careless misrepresentation. However, NFU did accept their investigation went on longer than it should have done, and they hadn't been proactive. In view of this, NFU upheld that aspect of Miss F's complaint and awarded her £350 in compensation.

Unhappy at NFU's response, Miss F complained to this service. The main part of her complaint was that NFU had unfairly avoided the policy. She was also unhappy by a lack of communication from NFU and their slow service. She said her mental wellbeing had been severely affected by the case and she had found it very stressful. She said her vet had put forward the claim for treatment of her horse and knew its medical and treatment history. She hadn't made a fraudulent claim and NFU could simply have rejected the claim. She was also unhappy at the time taken for the investigation and NFU had continued her horse and rider policy (and household insurance policy) whilst it took place.

Our investigator upheld Miss F's complaint in part, concluding NFU had acted fairly for the most part – but not in pursuing Miss F for the costs of their investigation. The investigator concluded Miss F knew about the treatment for EGUS in 2018, so it was fair and reasonable for NFU to conclude Miss F made a misrepresentation in the 2019 claim. He also thought it would have been reasonable for Miss F to have made NFU aware of the previous treatment, even though there were different types of EGUS. While accepting the claim had been made by Miss F's vet, the investigator thought the policy wording was clear it covered those acting for the policyholder, and that Miss F was aware of the condition being claimed for. The investigator also thought NFU had acted fairly within the relevant legislation in treating Miss F's claim as fraudulent and avoiding her policy.

But on the issue of NFU pursuing Miss F for the costs of their investigation, the investigator didn't think NFU had acted fairly. Based on the information from the vet at the time of the claim, the investigator thought it would have been reasonable for NFU to have avoided the policy at that stage rather than investigate further. Based on this, he thought the further investigation was unnecessary and so it wouldn't be fair for NFU to recover their costs from Miss F. The investigator also thought it was fair for NFU to offer Miss F £350 for the time taken by the investigation.

NFU disagreed with the investigator's conclusion that they shouldn't pursue Miss F for the costs of investigation. In disagreeing, NFU said it was important to investigate potential fraudulent claims fully and properly to reach a fair conclusion (given the potential implications for Miss F). Not recovering the costs of investigations would mean no financial consequences for those who commit fraud and that those costs would then fall to be borne by consumers in general. NFU also cited a previous decision from this service that concluded they could recover the costs of an investigation from a policyholder.

Because NFU disagreed with the investigator's conclusions, the complaint was referred to me to be reviewed. In my findings, I concluded Miss F would have known about the treatment in 2018 including that for EGUS (even if only part of the treatment). I also thought it the case Miss F would have known EGUS was the condition claimed for in 2019. While the claim was submitted by her vet, I didn't think it absolved Miss F of responsibility. I then considered whether it was reasonable for Miss F to have told NFU, on balance I concluded she should have done. Although Miss F said the condition was different between the two occasions, I wasn't persuaded this meant it was reasonable not to tell NFU. I also concluded that, as EGUS had been present (and treated) in 2018, it was reasonable for it to be considered an existing condition and wouldn't have been covered. Based on this, I concluded Miss F made a misrepresentation.

I also concluded that in avoiding the policy from the date of the claim (and cancelling the other policies Miss F had with them), NFU acted fairly and reasonably based on the evidence and information available.

On the issue of NFU seeking to recover the costs of their investigation from Miss F, I didn't think NFU acted fairly. From the evidence with the claim and the initial investigation it seemed clear NFU had reasonable grounds to both decline the claim and avoid the policy (and cancel Miss F's other policies). It was unclear why it took over nine months from the initial assessment and investigation for NFU to write to Miss F to avoid the policy and cancel the other policies, when it appeared the necessary information and evidence was available.

On NFU's other points, I didn't agree not recovering the investigation costs would mean no financial consequences for Miss F. Her claim wasn't paid, so she incurred vet's fees. And having her policy avoided (and others cancelled) for the reasons given by NFU would mean it likely she would have to pay significantly more for future insurance policies. I also noted the avoidance meant a separate claim submitted in January 2022 wouldn't be considered.

On the previous decision from this service referred to by NFU, while it supported NFU being able to recover the costs of an investigation, I thought the circumstances were different, as the other decision involved clear deception. The decision also said NFU could recover reasonable costs incurred - but some of those costs could have been avoided, so the estimate of costs was reduced.

In Miss F's case, given what I concluded about NFU being able to decline the claim and avoid the policy after the initial investigation, I concluded it wouldn't be reasonable for NFU to recover the full costs of the investigation. I thought it reasonable to request the costs of the initial investigation, to the point when Miss F withdrew her claim but not subsequent costs. If those costs couldn't be determined, given the bulk of the costs at that point being likely to be the loss adjuster's investigation, I thought it fair for NFU to seek recovery of the investigation costs in respect of the loss adjuster's costs (£2,018) and the vet's costs (£150). On the issue of compensation, I thought NFU's figure of £350 was reasonable.

Because I came to different conclusions to those of the investigator, I issued a provisional decision to give both parties the opportunity to consider matters further. This is set out below.

What I've provisionally decided – and why

I've considered the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

First, I want to reassure Miss F I've considered what she's told us about the impact the case had had on her, particularly her concern about NFU saying she submitted a fraudulent claim. However, it's not for me to decide whether someone has acted fraudulently (which Miss F denies). Rather, my role is to decide whether NFU has acted fairly towards Miss F. The main issue in Miss F's complaint is whether NFU acted fairly in avoiding her policy (and cancelling two other policies she had with NFU) on the grounds of the fraud condition within her policy. NFU say Miss F deliberately misrepresented the facts when lodging the claim and that she would have known about the previous treatment for EGUS and should have declared it. As such, they were entitled to use the fraud condition in the policy to avoid the policy, cancel the other policies as well as to seek recovery of the costs associated with dealing with the claim, including the investigation. Miss F says she thought the EGUS was different in 2018 compared to 2019 (respectively, secondary rather than primary). She also says the claim was made by her vet, who knew her horse's medical history.

I've considered the information and evidence available on this issue, including that provided by Miss F, her vet and that provided by NFU, including the evidence from C's investigation (including the statements from the discussions with Miss F and her vet). Based on this, I've concluded Miss F would have known about the treatment in 2018 including that for EGUS (even if it was only part of the treatment, as Miss F maintains). I also think it's the case Miss F would know that EGUS was the condition being claimed for in 2019, based on the diagnosis of her vet. The claim form submitted makes this clear and I think Miss F would have been aware of it. While the claim was submitted by her vet, that's standard practice in the sector and doesn't absolve Miss F of responsibility as the policyholder.

Having concluded Miss F would have known about the EGUS treatment in 2018 and the diagnosis of the condition in 2019 as part of the claim, I've considered whether it's reasonable for Miss F to have told NFU. Again, I've thought carefully about this, but on balance I think it's reasonable to conclude she should have done. Miss F says the condition was different between the two occasions (secondary in 2018 and primary in 2019). But I'm not persuaded this means it was reasonable not to tell NFU. Looking at the policy terms and conditions relating to Existing conditions it states:

"We will not pay any claim for a horse which directly or indirectly arises from, or is connected with any accident, illness or condition that happened, manifested, was present or had been diagnosed in the horse before the start of cover..."

As Miss F's horse wasn't added to her policy until February 2019, then as EGUS had been present (and treated) in 2018, I've concluded it was reasonable for it to be considered an existing condition and so wouldn't have been covered. Whether or not it was a primary or secondary condition isn't relevant in this respect.

I've also noted Miss F told C (when interviewed) her horse hadn't suffered from or received treatment for EGUS before the 2019 claim, when this wasn't correct. Based on this, I've concluded Miss F made a misrepresentation.

Having reached this conclusion, I've considered what the policy says in such circumstances. Under the General conditions section of the policy there's a heading Fraud and misrepresentation that states:

"If you or anyone acting for you:

- 1. Makes a claim which is fraudulent and/or intentionally exaggerated and/or supported by a fraudulent declaration, statement or other device; and/or*
- 2. Intentionally misrepresents, misdescribes or withholds any material fact relevant to this insurance:*

We will not pay any part of your claim or other claim which you have made or which you may make under the policy and we will have the right to:

- 1. Avoid, or at our option cancel, the policy and all other policies you have with us without returning any premium that you have paid;*
- 2. Recover from you any amounts that we have paid in respect of any claim, whether such claim was made before or after the fraudulent claim; and*
- 3. Refuse any other benefit under the policy.*

In avoiding the policy from the date of the fraudulent claim (and cancelling the other policies Miss F had with them), I've concluded NFU acted fairly and reasonably based on the evidence and information available.

The other issue for me to consider is NFU seeking to recover the costs of their investigation from Miss F. Miss F says NFU could simply have declined her claim (even though she withdrew it). She was also unhappy at the time taken for the investigation and NFU had continued her horse and rider policy (and household insurance policy) whilst it took place. Based on the information from the vet at the time of the claim, our investigator thought NFU could have avoided the policy at that stage (rather than investigate further). Based on this, he thought the further investigation was unnecessary and so it wouldn't be fair for NFU to recover their costs from Miss F.

For their part, NFU make several points. First, it was important to investigate potential fraudulent claims fully and properly to reach a fair conclusion (given the potential implications for Miss F). Not recovering the costs of investigations would also mean no financial consequences for those who commit fraud and that those costs would then fall to be borne by consumers in general. NFU also cited a previous decision from this service that concluded they could recover the costs of an investigation from a policyholder.

I've considered both views carefully, but on balance I don't agree NFU have acted fairly. I agree with the principle that insurers should investigate claims fully and fairly to reach a fair conclusion on whether to accept them. But looking at this case, it seems clear from the evidence provided with the claim (the horse's medical history) that EGUS had been treated in 2018 and was the condition claimed for in 2019. Together with the initial investigation (including the interviews with Miss F, the vet and their respective statements) it seems clear NFU had reasonable grounds to both decline the claim and avoid the policy (and cancel Miss F's other policies).

NFU accept the investigation went on longer than it should have done, and they weren't proactive. But it's unclear why it took over nine months from the initial assessment and investigation for NFU to write to Miss F to avoid the policy and cancel the other policies, when it appears to me the necessary information and evidence was available. NFU have supplied a summary breakdown of the costs of the investigation as part of this service's investigation (though not when those costs were incurred). Some £2,018 were in respect of the loss adjuster (C) and £150 for the vet, but the majority (£3,123) appear to be in respect of legal fees. While I haven't seen the detail of when the costs were incurred, from the other information provided by NFU it seems likely that the bulk of the loss adjuster costs would have been incurred in the initial investigation. And the bulk of the legal costs in the following nine months.

I've also considered NFU's other points. I don't agree that not recovering the costs of the investigation would mean no financial consequences (for Miss F). Her claim wasn't paid, so she will have incurred the vet's fees. And having her policy avoided (and others cancelled) for the reasons given by NFU will mean it's likely she will have to pay significantly more for future insurance policies. I've also noted the cancellation means a separate claim she submitted in January 2022 won't be considered.

I've also looked at the previous decision from this service referred to by NFU. It supports NFU being able to recover the costs of an investigation. But I think the circumstances are different to this case. I say that because the other decision involved clear deception (a garage estimate of repair costs was deliberately altered to inflate the cost). The decision also makes clear NFU could recover reasonable costs incurred. But some of those costs could have been avoided, so the estimate of costs was reduced.

In Miss F's case, given what I've concluded about NFU being able to decline the claim and avoid the policy after the initial investigation (and NFU accepting that the investigation took longer than it should) I've concluded it wouldn't be reasonable for NFU to recover the full costs of the investigation. I've thought about what would be fair and reasonable in the

circumstances. I think it would be reasonable to request the costs of the initial investigation, to the point when Miss F withdrew her claim (April 2020) but not subsequent costs. If those costs cannot be determined, given what I've said about the bulk of the costs at that point being likely to be the loss adjuster's investigation, I think it would be fair for NFU to seek recovery of the investigation costs in respect of the loss adjuster's costs (£2,018) and the vet's costs (£150).

On the issue of compensation, NFU accept the investigation went on longer than it should have done, and they weren't proactive. I think it's fair to offer compensation in these circumstances and their figure of £350 is reasonable.

My provisional decision

For the reasons set out above, my provisional decision is that I uphold Miss F's complaint in part. I intend to require The National Farmers' Union Mutual Insurance Society Limited to:

- Pay Miss F £350 in compensation for the investigation going on longer than it should have done (if they haven't already paid it)*

The National Farmers' Union Mutual Insurance Society Limited must pay the compensation within 28 days of the date on which we tell them Miss F accepts my final decision. If they pay later than this, they must also pay interest on the compensation from the date of my final decision to the date of payment at 8% a year simple.

Miss F responded to say she could see what the provisional decision was trying to achieve and appreciated the support our service had provided to her in considering her complaint. She again stated she wasn't a fraudulent person.

However, she didn't feel the impact of NFU's actions on her health and wellbeing had been fully taken into account. She said that since the incident she'd developed a medical condition and had felt extremely stressed. This had impacted her work, where she felt she hadn't been able to perform at her best since the incident.

She also felt she'd paid for cover under her horse insurance policy (and a separate home insurance) and the cover hadn't been valid, as NFU had declined her claims (the initial claim for EGUS and a second claim around the time NFU cancelled her policy).

NFU responded to say they accepted the provisional decision, noting that they had already paid the £350 compensation to Miss F.

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.

My role here is to decide whether NFU have acted fairly towards Miss F.

I've considered each of the points made by Miss F in turn.

On her first point, I recognize that it will have been stressful for Miss F to have had her claim declined and for NFU to have taken a further nine months to then write to her avoiding her policy (and cancelling her other policies). Having concluded NFU could have declined the claim and avoided her policy (and cancelling other policies) sooner than they did, I considered what would be fair and reasonable compensation for the delay, concluding that £350 (the figure offered by NFU) was reasonable. While Miss F has described the impact on

her health and the stress caused by NFU's decision and the delay, I don't think it changes my view on whether NFU acted reasonably in avoiding her policy (and cancelling her other policies). And I considered what Miss F told us about the impact and stress she'd suffered when she made her complaint to this service. So, I haven't changed my mind on this point.

I also appreciate Miss F's view that she isn't a fraudulent person and she holds this view strongly. However, as I said in my provisional decision, it's not for me to decide whether someone has acted fraudulently. Rather, my role is to decide whether NFU has acted fairly towards Miss F. I concluded they acted reasonably in avoiding her policy (and cancelling others) and in requesting some of the costs of the investigation. But I also concluded it was unclear why it took over nine months from the initial assessment and investigation to write to Miss F to avoid the policy and cancel the other policies, when it appeared the necessary information and evidence was available. So, I concluded it wouldn't be reasonable for NFU to recover the full costs of the investigation. I haven't changed my view on these points.

On her second point, I've considered what Miss F has said. In my provisional decision, I concluded NFU acted fairly and reasonably based on the evidence and information available in avoiding the policy from the date of the fraudulent claim (and cancelling the other policies Miss F had with them). As the policy had been avoided (that is, treated as though it had never existed) then it was reasonable for NFU to decline the second claim for treatment (as well as the first). I haven't seen any additional evidence that would lead me to change my view on this issue.

Miss F also felt she'd paid for cover under her policy (and separate home insurance and horse insurance policies) and the cover hadn't been valid. On the cancellation of the other policies, having concluded NFU acted fairly, then I don't agree NFU have provided cover that wasn't valid.

Based on these considerations, I haven't changed my mind on my conclusions. So, my final decision remains unchanged, for the same reasons set out in my provisional decision.

My final decision

For the reasons set out above, my final decision is that I uphold Miss F's complaint in part. I would have required The National Farmers' Union Mutual Insurance Society Limited to pay Miss F £350 in compensation for the investigation going on longer than it should have done.

But as they've confirmed they have already paid it to Miss F, I don't require them to take any further action.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss F to accept or reject my decision before 8 September 2022.

Paul King
Ombudsman