

The complaint

Mrs K complains that Xbridge Limited trading as Simply Business ("SB") as her broker failed to give her clear advice about a residential landlord insurance policy which led to a claim being proportionately settled.

Any reference to Mrs K or SB includes respective agents or representatives unless specified.

What happened

The circumstances of this complaint are well known, so I've summarised events.

- In August 2020, Mrs K took out a Company A insurance policy through SB.
- Mrs K initially used SB's website to obtain quotes, then spoke to an SB agent on the phone. The rebuild value used was £125,000. But since it's been established the actual rebuild value should've instead been around £175,000.
- Following a fire, Mrs K made a claim on the policy. Company A settled the claim proportionally as it said the property was underinsured, leaving Mrs K with a shortfall.
- Mrs K complained to SB, saying it hadn't been clear about what she needed to provide for her rebuild costs when it sold her the policy. She said the question was lacking detail, and she shouldn't be required to click a pop-up box to see information around examples of costs. She said she had answered honestly, believing the rebuild cost to be similar to the price paid for the property with an added contingency of a few thousand pounds. So, she asked SB to pay the remainder of the claim.
- SB disagreed, saying on the day the policy was taken out Mrs K had sought four quotes with a re-build value of £175,000 and the final fifth quote being £125,000. Following the quote its agent called Mrs K and it said her main focus was obtaining a competitive price, and during which all of the details were confirmed by Mrs K to the agent (including the rebuild cost). It said it offered a non-advised service and felt its question around rebuild cost was concise and clear.
- Mrs K said the various quotes were obtained for wider general interest should they have wanted to buy another property in the area. And her focus on the call was about price as she believed she'd answered the questions accurately. She also said she believed the rebuild value would be the price she paid for the property, with a few thousand pounds more as contingency (which is how she reached £125,000).
- The complaint came to this Service and one of our Investigators looked into what happened. She initially upheld the complaint, saying the question asked wasn't sufficient to allow Mrs K to answer accurately. And the website hadn't pointed Mrs K to any tools that could've allowed her to work out her rebuild cost (such as available online calculator). So, she felt the underinsurance was due to SB and directed it to cover the shortfall amount of the claim.
- SB disagreed. It said its questions were approved by various insurers and providing information to a rebuild calculator could be seen as SB making a personal recommendation. It also said Mrs K was not a customer in this instance, but a

professional landlord who owns multiple properties – so it said she should be aware of how to obtain a correct rebuild figure. And it said if Mrs K was unsure of how to calculate this sum, she could've asked its agent. It also highlighted previous quotes obtained prior to August 2020 (as early as 2016) included re-build sums of between £175,000 and £150,000 for the same postcode.

- Our Investigator looked again and changed her mind – not upholding the complaint. She felt Mrs K should be considered to be a commercial consumer. And taking into account the evidence available she felt the previous quotes, both at the time of sale and years before, persuaded her that Mrs K ought to have known the actual rebuild cost and the significance of this.
- Mrs K put forward a detailed explanation for why she disagreed. This included references to various decisions issued by this Service previously. She also commented that she should not be seen as a commercial customer, and only had one other property at the time of sale. And overall, said SB had failed to give her the necessary clear information to allow her to answer the question correctly.
- Mrs K also did not deny she obtained rebuild quotes previously up to £175,000, but this related to her and partner wanting an indication of what it may cost to insure a property elsewhere in the area in the future. She also acknowledged she had taken buildings policies that covered a sum of £150,000 in the past for the same property. She also requested additional interest to be paid on the settlement amount, and a loss of rent payment.

So, the complaint was passed to me for an Ombudsman's decision. I issued my provisional decision on 17 August 2022, and I've included an extract of this below.

- *"This complaint is against SB as the broker. Any issues about Company A and its choice to proportionately settle this claim do not fall within this decision."*
- *The crux of the dispute in this case is about the information presented to Mrs K, and what she already knew, when she took out this policy. In doing so, it had an obligation to present information that was clear, fair and not misleading.*
- *Within the application, under the heading "Buildings sum insured" it said "How much would it cost to rebuild your property from scratch?" with a drop down box below allowing the user to select an appropriate sum. I think Mrs K ought to have known from this that the question wasn't simply asking what value she paid for her property.*
- *To the right of this was a question mark, which if clicked on said:*
"The rebuild cost is not the same as the market value. In addition to the 'bricks and mortar' cost, it also includes other amounts associated with rebuilding; fees paid to builders and architects, for example."
- *I think this explanation clearly details the additional costs that the rebuild cost would need to entail. And while I accept it could be clearer by including details of where a policyholder may obtain an estimate (such as an online calculator), I'm not persuaded it is unclear.*
- *Mrs K's partner, Mr K has said that he helped Mrs K fill in the online questions within the application. He said they had discussed what the rebuild value meant, and thought it wouldn't cost more than the property had been purchased for. He said as the information box was not mandatory, they didn't think they had to read it. And highlighted a number of final decisions issued by this Service that touch on the topic of information boxes within these types of applications. To be clear, while we may have general approaches, our decisions are all made based on the individual facts at hand. So, I have to consider this point in the circumstances of Mrs K's case.*

- *It strikes me that Mrs K having questions about the cost of the rebuild and discussing this with her partner while completing the application form – as they’ve described – might reasonably have led her to click on the question mark that was present or take other steps to check this. And in turn, seen the description that explained the additional costs she’d need to factor into a rebuild cost. But even without clicking on it, I think the question clearly directed Mrs K to provide the rebuild cost.*
- *It’s not in dispute that several quotes were obtained on the same day, for building sum values of £175,000. Nor is it disputed that previous quotes had included values up to £175,000, and the property had been insured for £150,000.*
- *Mrs K has indicated these quotes were speculative and indicated a general interest in costs of properties if they were to buy another in the future. But I’m not persuaded this is the most likely explanation for these quotes. Instead it seems most likely to me that Mrs K had obtained these quotes to consider what the related cost of the premiums would be. And Mrs K hasn’t explained why the cover for this year, was lower than previous years, if her belief was that the value should be based around the sale price of the home.*
- *For all of these reasons, while I acknowledge SB’s information could’ve been clearer in places, in these circumstances I’m not persuaded it would be fair or reasonable to hold SB responsible for the incorrect sum input by Mrs K. And it follows that I’m not directing SB to do anything further.”*

I gave both parties an opportunity to respond with any further comments or evidence. SB said it accepted the decision. Mrs K asked for a final decision and stated that Company A had not yet reached formal settlement on the claim.

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.

As neither party has given me anything new to consider, I see no reason to depart from my provisional decision for the reasons previously given.

I acknowledge Mrs K’s comment that Company A may not have formally settled the claim at this stage, but this makes no difference to the decision I’ve reached as I am not directing SB to do anything further.

My final decision

For all of the above reasons, I’m not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mrs K to accept or reject my decision before 27 September 2022.

Jack Baldry
Ombudsman