

The complaint

Mr B complains about how The National Farmers' Union Mutual Insurance Society Limited (NFU) has handled his home insurance claim. He's also unhappy about conflicting information NFU has provided and the premiums he has been charged.

NFU is the underwriter of this policy i.e. the insurer. Part of this complaint concerns the actions of its agents. As NFU has accepted it is accountable for the actions of the agents, in my decision, any reference to NFU includes the actions of the agents.

What happened

In mid-2019, Mr B made a claim under his home insurance policy with NFU after his property was flooded. Shortly after drying works were completed, Mr B's property was flooded several more times. It was decided that Mr B's property should be demolished and rebuilt on higher land.

In September 2022, Mr B raised a complaint with NFU. He said he'd just received his policy documents for the year and thought there were some significant errors on them. He said the cover increase wasn't tracking the index as it was supposed to. He wanted to know why his policy premium had increased by nearly 22% but the cover had not matched it. He also queried why there wasn't a no claims discount when he hadn't made any further claims since the 2018/2019 policy year.

Mr B said he'd been conflicting information from NFU about the amount his property should be insured for. He said he'd been told to maintain the cover at the new index linked amount to ensure the increased cover was available for the re-build. However, he'd recently been told he should only have been paying for public liability and "debris removal". If he'd previously been misinformed, he thought he'd be due a significant refund of premiums.

Mr B said the policy statement included wording that the address had never sustained loss or damage by flood. He said he'd previously asked NFU to remove it because it wasn't true.

Mr B said he'd been told the lodge he was using as alternative accommodation on the property site should be covered by the property insurance. He said an additional £120k for the replacement cost should be added to the cover and the premium would need to be adjusted accordingly.

He also queried a clause on the policy documents requiring him to check the house weekly. He said the property would be demolished as soon as planning permission was granted for the replacement house. He didn't believe the clause was appropriate and felt it should be removed as it obliged him to enter an unsafe building.

NFU said it wasn't able to respond to his complaint within the necessary timeframe. So, Mr B asked our service to consider his complaint. He also raised concerns about delays in dealing with his claim.

NFU issued a response to Mr B's complaint in March 2023. It said the majority of Mr B's claim had been handled as it would expect but it acknowledged some gaps in communication. It didn't agree that it was responsible for delays in progressing Mr B's claim.

NFU said Mr B's premiums had been checked by an underwriter and were correct. It remained Mr B's responsibility to ensure the sum insured was correct and he could increase his sum insured if he wanted to. It said it couldn't apply the no claims discount while Mr B's property remained unoccupied.

NFU said it had removed the statement about not being aware of previous flooding from Mr B's policy. It said the clause stating Mr B's property needed to be checked weekly was to check if damage worsens and this action was required. If Mr B's property was not safe to enter it would expect Mr B to view it from a safe place.

NFU said it would be sending Mr B £200 to compensate him for some service failures it had noted.

Mr B felt that NFU hadn't properly addressed his concerns. Our investigator didn't think Mr B's complaint should be upheld. She didn't think NFU was responsible for any meaningful delays to the progress of his claim. She said the sum insured to rebuild the property in the event of a new claim was a separate issue to the cost of rebuild under the ongoing claim.

Our investigator said NFU had explained that Mr B didn't require insurance for a full rebuild while his property was a demolition site and uninhabitable and the claim was ongoing. NFU had said that Mr B was effectively over-insured, but he had insisted he wanted to continue with full insurance for the duration of the claim. She didn't think the sum insured had caused a problem with the claim because NFU hadn't said it would be unwilling to cover the cost of a like-for-like replacement property.

Mr B disagreed with our investigator's outcome. He said NFU hadn't stated he was over insured and had repeatedly told him he had to pay the full premium at renewal. He didn't think she had properly addressed his concerns about the delays and the impact on his mental health. He didn't accept that they could be attributed to the pandemic.

Mr B said our investigator hadn't addressed his concern that cover didn't appear to be increasing by the BCIS rebuild index annually which could lead to customers being potentially underinsured.

He also commented that NFU should have reimbursed him the remainder of his policy premium at a reduced rate once it decided it was rebuilding. It made no sense to continue to issue policy and premium documents for an uninsurable property.

Our investigator asked NFU for some further information. It told her it had informed Mr B that it didn't require full rebuild cover. However, it later said the agent advice to Mr B that he no longer needed a full rebuild cost to be insured was not correct. It said it would not advise Mr B to reduce the level of cover. The building sum insured should be maintained and would apply to the new build from the original.

Our investigator told Mr B what NFU had said. Mr B was unhappy that NFU had given contradictory information multiple times between stating he was over insured and that he needed to maintain cover. He didn't think it made sense to maintain cover for a non-existent build. He requested that his complaint be considered by an ombudsman.

I issued a provisional decision on 22 December 2023, where I explained why I intended to uphold Mr B's complaint. In that decision I said:

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

Based on what I’ve seen so far, I intend to uphold Mr B’s complaint. I’ll explain why.

I’ve considered everything Mr B has told our service, but I’ll be keeping my findings to what I believe to be the crux of his complaint. This isn’t intended as a discourtesy and is a reflection of the informal nature of our service.

I thought it would be helpful to provide some clarity about the Financial Ombudsman Service’s role and the scope of the complaint that I’m deciding. Our role is to resolve disputes between complainants and financial businesses, to help both parties move on. It isn’t our role to handle a claim or to deal with matters as they arise.

I can’t consider any concerns Mr B raised prior to NFU’s final response of 24 September 2019 as he didn’t bring a complaint about these matters to our service within six months of the letter being issued. I also won’t be considering anything he’s raised after NFU’s final response letter of 15 March 2023. If Mr B would like our service to consider matters that have arisen after this date, he may be able to bring them to us as a separate complaint.

Index linking

The policy’s terms and conditions say:

“The most we will pay for damage to your buildings is the insured rebuilding cost for buildings shown on your schedule and any extra amount for index linking.”

“Index linking” is defined as:

“The monthly adjustment we will make to the limit you have chosen. Your renewal premium will be based on the adjusted amount. We work out the adjustment as follows:

- For the Buildings and Buildings plus sections – in line with the Royal Institution of Chartered Surveyors’ House Rebuilding Cost Index...*

We may at our option use other indexes.”

Mr B raised concerns that the rebuilding cost on his policy schedule for 2022/23 didn’t appear to have increased in line with the BCIS house rebuilding cost. He thought the cover should have increased by 21.7% but the increase was around 12.9%.

In its response to his complaint, NFU said that figures were applied three months in advance due to its renewal windows. It said Mr B was free to increase the sum insured if he wanted to as it remained his responsibility to ensure the sum insured was accurate.

I appreciate the rebuild cost showing on Mr B’s policy schedule for 2022/23 was less than what he was expecting. However, NFU has explained the reason for this and gave him the option of increasing the sum insured if he wanted to. I think this was reasonable.

Mr B has commented that no rebuild figure has been agreed for his claim. NFU can’t provide a property that is like for like because of the age and construction of his property. He says what is considered to be like for like is yet to be agreed.

I appreciate Mr B is concerned that the sum insured might not be sufficient to get him back to his pre-loss condition. However, NFU seems to think that the rebuild costs for a like for like replacement property will fall below the sum insured. I can't consider matters that haven't arisen in this decision. If Mr B is unhappy about the settlement he is offered, he may be able to bring this to our service to consider in the future.

Premiums

NFU has given Mr B conflicting information about whether or not the sum insured needed to include full rebuild costs while the main building awaited demolition.

Mr B says he first queried why he was paying for full rebuild cover at every renewal except the first one in 2019. He says he was told he had to pay this at every renewal except for the renewal in 2022. NFU then reversed the statement and told him the policy cost was correct.

I can see that in October 2022, NFU told Mr B that what was at risk was his uninhabitable property and what it would term "debris removal" and any public liability for him as the property owner.

NFU said: "Whilst you can choose to set any amount you wish in respect of the policy buildings sum insured, we have already agreed to pay for your property rebuild and you can't insure this twice. Whilst you could theoretically insure for any amount you deem suitable, in reality NFU Mutual would not be liable for any subsequent material damage claim on the buildings – we have already accepted a full rebuild claim. However, in order to ensure you are covered correctly to retain your public liability as a property owner, we do need to have some form of buildings insured – our suggestion would be to insure for 'debris removal' costs only (perhaps this amounts to approx. 15-20% of your rebuild cost.)"

In July 2023, NFU told our investigator that Mr B's main property was currently a demolition site and completely uninhabitable. It said:

"As the claim is being settled on this basis there has, since this point, been no need to continue to insure the property for a full rebuild – it's a mute [sic] point as we would not be paying out twice for the same risk."

However, in September 2023, NFU told our investigator that the agent advice to Mr B that he no longer needed a full rebuild cost to be insured was not correct. It said it would not advise him to reduce the level of cover. It said NFU is the insurer of the new build project, and as such the building sum insured should be maintained and will apply to the new build from the original.

I queried why NFU didn't appear to have taken into account the fact that the building had remained unoccupied for around four years without being demolished or the rebuild commencing. I didn't think it seemed fair that Mr B was being charged full premiums for this time, given that the main building was going to be demolished.

NFU said it would be happy to agree to retrospective adjustments to the policy to amend the settlement basis to "debris removal only" (its lowest possible settlement basis), the level of cover to "fire perils only" (its lowest possible settlement basis) and to permit a reduction in the sum insured. It has confirmed that Mr B would be covered for public liability if it did this.

NFU said normal practice would be for the customer to suggest a reduced amount that represents the cost of debris removal only, which NFU would then consider for acceptance. It proposed that the adjustment and corresponding premium recalculation is operated from the date it was agreed that the property would be demolished. It said the policy would be a

de-facto policy for the new structure to be built and it must be returned to standard perils, standard settlement and the appropriate indexed sum insured at the commencement of works.

NFU also commented that contents cover had not been reviewed. It said that as of renewal the current content sum insured is £44,190. If the current sum insured was adequate, it could arrange a premium refund from the date of claim. If Mr B had replaced the contents and would like these insured, he would need to advise the adequate sum insured. If there are any contents in the storage, NFU could provide cover, but it would require the storage address.

NFU has now said that it can reduce the sum insured from the date it was agreed that the building would be demolished to “debris removal only”, which would include public liability cover. I think this is reasonable.

It's the responsibility of the policyholder to decide on the sum insured. However, under normal circumstances a policyholder would usually have some help in determining the cost of rebuilding their property when taking out a policy. This might be in the form of a help text box, linking them to an online calculator.

I think it would be a difficult judgement call for a policyholder to provide a sum insured for a house that's about to be demolished. Given the unusual circumstances of this case, I'd expect NFU to give Mr B as much guidance as possible to help him decide on the sum insured.

Once that's agreed, I think NFU should make the retrospective adjustments to Mr B's policies (dating back to when it was agreed the building should be demolished) and refund anything he's overpaid. I also think it would be fair for NFU to pay Mr B compensatory interest at 8% simple per year from the date the overpayments were made until the date the refund is paid.

I think the conflicting information NFU has provided about whether or not he needed to maintain the full rebuild cost has caused Mr B unnecessary frustration and inconvenience. So, I think it would be fair for NFU to pay him £150 to compensate him for this.

Delays

Mr B has also raised concerns about delays in the progression of his claim. As explained, I'm only able to consider events that occurred between 24 September 2019 to 15 March 2023 in this decision.

NFU says it didn't uphold Mr B's complaint about delays due to the complex nature of the claim. The property flooded on multiple occasions after attempting to go down a typical repair route. However, it then became apparent the property would continue to flood and other options would need to be considered.

NFU says repairs, cash settlement and a complete rebuild were considered. The rebuild would be subject to local planning and the insured's own appointed experts. Unfortunately, the unexpected lockdowns of Covid-19 also contributed to the time the claim was taking.

From what I can see, there were delays in pre-planning advice being given by the council because the planning officer was unable to travel due to Covid-19 restrictions. There was also a delay in the pre-planning application being submitted. The planning officer then suggested some alteration to design and a revised drawing was produced, which was returned to the draughtsman by Mr B for revision.

It looks like the full planning application wasn't submitted to the council until early 2023. This was for a larger property than the one that was to be demolished.

I understand that Mr B has been waiting a long time for his property to be rebuilt. It has been very stressful for him and has impacted his mental health. However, this is a complex claim, which has also been impacted by the Covid-19 pandemic. Having reviewed the information provided, I'm satisfied that most of the delay in progressing the claim was due to events outside of NFU's control.

NFU says the £200 it awarded Mr B in response to his complaint in March 2023 was in recognition of some slight poor communication from its loss adjuster and a delay in responding to his complaint. I think this is reasonable."

I set out what I intended to direct NFU to do to put things right. And I gave both parties the opportunity to send me any further information or comments they wanted me to consider before I issued my final decision.

Responses

Mr B thanked me for my clear explanation and thoughts on his complaint. He said he felt some of the stress and weight leaving him as he read my provisional decision.

NFU said it agreed with the recommendations in the 'putting things right' section of my provisional decision. However, with regard to the suggestion that NFU should provide guidance to Mr B to decide on the sum insured, it wanted to clarify that it was not an expert in this area, and it is the responsibility of the customer to select the appropriate sum insured.

NFU said its guidance would be limited to advising Mr B to seek advice from experts such as an architect and refer to the BCIS calculator. The BCIS calculator may not be helpful in this instance as Mr B needs to decide the sum insured for debris removal and not full rebuild cost. NFU requested that I advise Mr B to seek advice from his architect or another expert in my final decision.

NFU said at the 2020 renewal the sum insured for contents remained at £120k and was currently still in force under the policy. It was happy to reduce the contents sum insured to £35k from the date of the claim in 2019. And, as this section still remained in force under the main property, it was happy to refund this section in its entirety from the date the lodge was added on the policy in 2020.

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 appreciate NFU doesn't feel it's an expert with regard to helping Mr B decide on a sum insured. However, as an insurer I would expect it to have greater expertise than Mr B. In normal circumstances it would be enough to direct him to the BCIS calculator. But as NFU has said, the calculator wouldn't be of much help in this instance because the sum insured needs to reflect the cost of debris removal, rather than the full rebuild cost.

I accept that it's ultimately up to Mr B to decide on the sum insured and he may wish to seek advice from his architect or elsewhere. But as an insurer, I think NFU is likely to have some experience of this type of situation. So, while I recognise that the responsibility of deciding

on the sum insured belongs to Mr B, I would also expect NFU to provide some guidance above referring him to the BCIS calculator.

I hadn't considered the contents sum insured in my provisional decision as this wasn't part of Mr B's complaint. However, I'm pleased to see that NFU is willing to reduce the contents sum insured and refund Mr B accordingly. If Mr B is happy with NFU's proposal regarding the contents sum insured, he should let NFU know.

Putting things right

NFU should:

- Recalculate the policy premiums based on the revised sum insured agreed with Mr B (with appropriate guidance from NFU) from the date it was agreed the property should be demolished up to the date the work commences and
- Refund Mr B any overpaid premiums and
- Add interest to the above at 8% simple per year* from the date the overpayments were made until the date the refund is made and
- Pay Mr B £150 for distress and inconvenience.

*If NFU considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr B how much it's taken off. It should also give Mr B a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

For the reasons I've explained, I uphold Mr B's complaint and direct The National Farmers' Union Mutual Insurance Society Limited to put things right by doing as I've said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 16 February 2024.

Anne Muscroft
Ombudsman