

The complaint

Mr and Mrs R are unhappy with what The National Farmers' Union Mutual Insurance Society Limited (NFU) did after they made a claim on the legal expenses section of their Home and Lifestyle Insurance policy.

Although the complaint is from Mr and Mrs R, as the submissions have been made by Mr R, I'll refer to him in this decision.

What happened

In July 2020 Mr R contacted NFU as he wanted assistance with a claim against a structural engineer who he said was responsible for significant damage at his property. NFU's notes say it discussed the claim with Mr R on 27 July and asked for further information including the quotes and contract with the structural engineer and his builders. And it confirmed those requests in writing and sent a chaser for that information a month later. As it didn't receive a response the claim was closed.

Mr R's recollection is different. He says NFU told him to obtain evidence to show the structural engineer was at fault. He spent around £35,000 on this and referred matters back to NFU in October 2022. But NFU said it wasn't responsible for the actions of its claims handlers and wouldn't be covering the costs he'd incurred.

Our investigator didn't think the evidence showed NFU did tell Mr R to obtain proof the structural engineer was to blame before cover could be confirmed. What it asked for was information to help it assess the claim and it followed that up when it didn't receive a response. She didn't think it was unreasonable of NFU to close the claim when it did. And the policy didn't cover costs and expenses incurred prior to cover being confirmed. However, NFU had said it would reassess whether cover could be provided going forward if Mr R was able to provide the information previously requested which she thought was fair.

Mr R didn't agree. In summary he said:

- NFU did tell him he needed to provide who was at fault before it would continue with his legal expense claim and this would be recorded on his phone calls with it. As the structural engineer refused to accept responsibility and his insurer hadn't confirmed cover he had to instruct solicitors to pursue the claim which included gathering expert evidence.
- Once the failing by the engineer had been established he returned to his insurer who told him the claim had been closed and it wasn't responsible for the actions of its claims handlers. He thought NFU should take over management of the issue and instruct those claims handlers to liaise with his solicitor and provide cover for ongoing legal expenses.
- And he continued to feel they should pay expenses already incurred as he hadn't been told those wouldn't be covered when he was asked to prove who was liable for the damage at his property.

- He also queried whether the claim should have been considered under his commercial policy which was in his personal name and not that of a company and which had a higher limit for legal expenses cover than his residential policy.

So I need to reach a final decision.

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.

The relevant rules and industry guidelines say NFU has a responsibility to handle claims promptly and fairly. It shouldn't reject a claim unreasonably.

NFU is the insurer of Mr R's legal expenses insurance policy. I appreciate that policy is administered by a different business which handles claims made on it. However, as the insurer NFU remains responsible for the actions of its claims handlers and so any failing on their part would be something NFU was accountable for. So any reference to NFU in this decision includes the actions of its claims handlers.

I've looked first at the terms and conditions of Mr R's personal legal expenses policy. This does contract disputes for the buying or hiring in of goods or services. But it doesn't cover disputes where the value exceeds £50,000. And, in common with other legal expenses policies, it's a condition of cover that any claim must have reasonable prospects of success (meaning the insured person must have at least a 51% chance of recovering losses or damages).

The information initially provided about Mr R's claim was limited and in a call with NFU he did reference the total contract value as being around £90,000. So I think it was reasonable of NFU to ask him for further information so it could assess whether he had a claim that fell within the terms of his policy (and to help assist any subsequent assessment of its prospects of success).

Mr R's recalls NFU telling him that he needed to obtain expert evidence in order to prove the structural engineer was at fault before his claim could be considered further. I've listened to the calls he had with NFU and I don't agree that is what happened. The information it discussed with him related to the value of his contract and whether that fell within the limits set out in his policy. Following the calls it sent him emails asking him to provide details of that along with further details of the claim and the date the issues began. And in a further call the following day Mr R confirmed receipt of these information requests.

NFU didn't suggest either in these calls or in other correspondence from the time Mr R would need to obtain expert evidence before his claim could be considered further. It followed up on its information request the next month and this is also referenced in a complaint response Mr R was sent in September 2020. And Mr R's policy says it doesn't cover costs and expenses incurred before NFU's written acceptance of a claim. Given all that I don't think there are grounds to say NFU should be responsible for the costs and expenses Mr R incurred between July 2020 and October 2022.

I recognise Mr R is concerned about what cover will be provided for his claim going forward. I asked NFU for further information on the current status of this. It told me it contacted his solicitors to request information to inform its assessment on 14 March 2023 but didn't receive a response (I can see it did receive an out of office from the solicitor dealing with the case which suggests it was received). So Mr R may wish to discuss with his solicitors whether a response can now be provided.

I've also considered Mr R's argument that his claim could have been considered under the property owners policy he also holds with NFU (which has higher limits for legal expenses claims). NFU said this wouldn't cover a claim that relates to his personal property. But I understand its broader position is it needed the information it requested about the claim in July 2020 to properly consider whether cover could apply under either of the policies he held. I think that was reasonable and that information wasn't provided within the period I'm considering in relation to this complaint. So I don't think NFU has done anything wrong here.

And if Mr R is unhappy with any of the more recent actions of NFU that's something he can raise with it as part of a fresh complaint. If he's unhappy with its response he could then refer the matter to our service. But those aren't issues I can consider in this decision because NFU hasn't yet had an opportunity to consider and respond to these matters.

My final decision

I've decided not to uphold this complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs R to accept or reject my decision before 1 May 2024.

James Park
Ombudsman