

The complaint

Mr and Mrs K say Barclays Insurance Services Company Limited mis-sold them insurance policies covering properties they rented out.

Although the policies are in joint names the complaint has been brought by Mr K so for ease I'll generally refer to him in this decision.

What happened

Mr K has had separate contents insurance policies with Barclays for a number of years covering two leasehold flats he rents out. In September 2019 Mrs K contacted Barclays and queried whether the policies covered loss of rent. Barclays said the policy for one of the flats did but not the other one. Mrs K took out cover which did include that.

In February 2023 Mr K made a claim. He said his tenant had been evicted and had stolen items and caused damage to the property. I understand his insurer turned the claim down because theft by tenants was excluded. And while the policy did cover malicious damage the issues in this case related to the building rather than the contents.

Mr K complained to Barclays the policies had been mis-sold. He thought because loss of rent was included the policy would also cover theft by the tenant. Barclays said there had been no discussion about cover for that when Mr K spoke to it in September 2019. So it didn't agree the policy had been mis-sold on that basis. However, as Mr K was subletting his properties this wasn't something the policies covered at all. And it had been aware of that at inception. So they shouldn't have been sold to him in the first place. It said it would have honoured any valid claim made but the policies would now be cancelled. After Mr K referred his complaint to us it also offered to pay £300 in compensation. Mr K didn't accept that.

Our investigator agreed the policies had been mis-sold. However, Mr K then told us he wouldn't have taken out cover elsewhere if Barclays had correctly informed him the policies wouldn't cover him. And he hadn't done so following the decline of his claim. Our investigator said Barclays should refund the premiums he'd paid (plus interest at 8% simple). He thought the £300 Barclays had offered for distress and inconvenience was fair.

Barclays agreed with his outcome. Mr K didn't agree. He thought he should receive additional compensation for the stress he'd been caused and the financial impact on him of what happened. 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.

Barclays says it arranged cover for Mr K on a non-advised basis. So under the relevant rules, it didn't need to ensure the policy was suitable for him. But it did need to provide Mr K with clear, fair and not misleading information so he could decide for himself if the policy was right for him.

I've listened to the call Mr K had with Barclays in September 2019. Mr K says he thought as the policy covered loss of rent it would also cover theft by the tenant. But that wasn't an issue he raised during his call with Barclays. As a result, I don't think it was something it needed to provide him with information about. I think it was for Mr K to review the policy terms and see if the cover provided met his needs.

However, it's not in dispute Barclays got something more fundamental wrong. It's accepted it was aware from the outset that Mr K was subletting his property. But it sold him policies that it says wouldn't cover someone in that situation. So clearly these were mis-sold to him for that reason and I've gone on to think about the impact of that on Mr K.

He's told us that he wouldn't have taken out alternative cover if Barclays had given him correct information. Even if he had it appears Mr K was in principle happy with the policies he'd taken out. So if Barclays had acted as it should I think it's likely any other policies he took out would have provided similar cover. As a result I don't think it was because of Barclays error the claim he subsequently made was turned down. The reason for that appears to be because, in the view of his insurer, the claim wasn't covered by his policy regardless of the subletting issue.

But it does appear that because of what Barclays got wrong Mr K paid premiums for policies that wouldn't cover him in any case. So I think it's right that to put things right Barclays refund the amounts he paid for them. I also think that to reflect the fact he's been deprived of that money it should pay interest at 8% simple on those premiums from the date of payment until the date of settlement (I don't think the calculation it's carried out to date fully reflects that approach).

I accept Mr K will also have been caused distress by learning that cover he thought had been put in place to cover his circumstances didn't in fact do so. However, I'm also mindful of the fact that Barclays sought to provide reassurance by saying it would have covered a claim on his policy that would otherwise have been payable. Taking that into account I think the £300 Barclays offered following Mr K's complaint to us is a reasonable way of recognising the impact on him of what it got wrong.

Mr K has also expressed concern about the financial loss he's suffered. But for the reasons I've explained I don't think his claim was declined as a result of what Barclays got wrong. It appears to have been turned down because his insurer didn't think it met other terms of his policy. If Mr K disagrees with that decision (for example if he's concerned as to whether a claim for loss of rent has been correctly declined) that's something he'd need to raise with his insurer.

If he's able to show he would have a claim that would otherwise have been payable but for the subletting issue then, as I've already said, Barclays has confirmed it would cover that. But Mr K would need to demonstrate that in the first instance (and I think Barclays would be entitled to deduct the premium refund on the relevant policy from any settlement payable to Mr K).

My final decision

I've decided to uphold this complaint. Barclays Insurance Services Company Limited will need to put things right by refunding Mr and Mrs K the premiums they paid for both of their

policies. It will need to pay interest at 8% simple on those amounts from the date of payment until the date of settlement. And it will also need to pay Mr and Mrs K £300 in recognition of the distress and inconvenience it caused them.

If Barclays considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr and Mrs K how much it's taken off. It should also give them a tax deduction certificate if they ask for one, so they can reclaim the tax from HM Revenue & Customs if appropriate

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K and Mrs K to accept or reject my decision before 1 July 2024.

James Park
Ombudsman