

## The complaint

Mr D and Mrs D complain that Ace Insurance Services Group Ltd (“Ace Insurance”) mis-sold them their home insurance policy.

Mrs D has acted as the main representative during the complaint process. So, for ease of reference, I will refer to any actions taken, or comments made, by either Mr D or Mrs D as “Mrs D” throughout the decision.

## What happened

Mrs D completed an online form in order to get a quote for home insurance. One of the questions asked Mrs D the value of her property, and she answered this as £500,000. An agent from Ace Insurance then called Mrs D and asked her questions about her property – this included clarity on what the £500,000 figure represented. The agent then sent Mrs D the policy documents and cover was provided by an insurer. Around 10 months later, and following a flood, Mrs D made a claim against her policy. The insurer appointed a loss adjuster who estimated the rebuild value of Mrs D’s property as £1,204,500. The insurer explained Mrs D had underinsured her property, so they agreed to settle 73% of the value of the claim.

Mrs D complained to Ace Insurance. She said she’d been mis-sold the policy and that Ace Insurance hadn’t provided adequate support to help her understand the rebuild value. Mrs D said during the sales process, the figure of £500,000 wasn’t questioned and she was simply asked how much insurance she needed. Mrs D said she was asked for some details about the house such as the number of bedrooms and the materials used in the roof and walls. But she said, when the loss adjuster estimated the rebuild cost, they needed to know several other pieces of information which Mrs D wasn’t asked during the sales process. She said the loss adjuster measured the house, noted the number of floors and estimated square footage. Mrs D said the loss adjuster then inputted the square footage and building materials into an online industry calculator which then provided the estimate of £1,204,500. Mrs D says if she had access to that calculator, or if Ace Insurance had referred her to this calculator, then she wouldn’t have been underinsured.

Ace Insurance responded and explained, during the initial sales call, the agent asked Mrs D to confirm that the £500,000 rebuild figure she’d put on the online quote form was correct and that this was the figure on the previous policy. Ace Insurance said Mrs D was then informed that the insurer they were looking to place the policy with offered cover of up to £500,000 and Mrs D was asked if this sum of cover would be enough to rebuild her property, and Mrs D answered ‘yes’.

Ace Insurance referred to policy documents sent to Mrs D following the call which explained the consequences of not declaring the full value of the property. They said the policy terms and conditions were also attached which stated Mrs D must take reasonable care to answer all questions fully and accurately. Ace Insurance said, policy documents had been sent to Mrs D a number of times so there was sufficient opportunity for Mrs D to read all the declarations in full. They said, during their discussions with Mrs D she didn’t at any point raise an issue that the £500,000 rebuild figure was inadequate.

After considering all of the evidence, I issued a provisional decision on this complaint to Mrs D and Ace Insurance on 29 May 2024. In my provisional decision I said as follows:

*“The dispute here relates to the sale of the policy. Mrs D says Ace Insurance didn’t do enough to help her understand the significance of the rebuild value and provide her with adequate and sufficient information to help her provide a more accurate estimate. Ace Insurance say, during a call with their agent, Mrs D confirmed £500,000 was sufficient to rebuild her home. And they say their literature made it clear that she needed to declare the full value of the property insured and failure to do so may result in the insurer reducing the claim settlement.*

*As Ace Insurance are acting as the broker here, I would expect them to provide Mrs D with information which is clear, fair and not misleading – and that includes taking appropriate steps to help Mrs D provide reasonable answers to the questions the insurer would like to know about. The insurer wanted to know the rebuild cost, so I would expect Ace Insurance to ensure they asked Mrs D about the rebuild cost, specifically including, providing appropriate guidance and support about how to estimate it. And in this case, I’m not persuaded Ace Insurance did enough here to help Mrs D to provide a more accurate rebuild figure.*

*Ace Insurance have provided details of the answers Mrs D provided when she completed an online form. Ace Insurance say these questions are part of the data collection process that is given to them by a managing general agent. One of the questions asked Mrs D her “property value” and Mrs D answered this as ‘£500,000’. The submission of the online form then led to an agent from Ace Insurance calling Mrs D. I’ve listened to this call, and the agent explained they have an insurer who can provide cover and started off by saying, “It’s important that you provide honest and accurate answers. If any information you provide is incorrect it may mean that any claims you make may not be paid or your policy may be cancelled...and I’ll give you a personal recommendation on a policy I feel most suits your needs...”*

*Later in the call, the agent said, “...the rebuild figure, I can see you’ve got a property value in online of £500,000...is that what you’ve currently got on your previous insurer or is that what the rebuild figure is?” Mrs D explained that’s the figure she had on her previous insurance policy and the agent then said, “The insurer that I’m looking at, they do offer blanket cover of up to £500,000 on the building, so you don’t need to know the exact amount but as long as £500,000 is enough.” Mrs D then said she thinks that should be fine. The agent then asked how many bedrooms and bathrooms are in the house and Mrs D answered these questions. The agent then asked about what material the roof and walls are made of, and Mrs D answered these.*

*During the call, the agent did make reference to the term ‘rebuild figure’ but I think it’s important here to take into account the precise question the agent asked. The agent asked whether the £500,000 figure was based on what Mrs D currently has on her insurance or if it’s the rebuild figure.*

*This question presented Mrs D with the possibility of choosing one option or the other. Given that Mrs D answered this by explaining the £500,000 figure was based on what she has on her current policy, I think this demonstrates Ace Insurance were effectively told £500,000 wasn’t the rebuild figure. I think it would’ve been reasonable therefore in the circumstances for Ace Insurance to then provide more clarity on what a rebuild figure is. I say this for a number of reasons.*

*Firstly, prior to the call, and when completing the online form, Mrs D had been asked for the value of her property. Given what this question asked, I’m persuaded Mrs D*

*answered this on the basis of what she thought her property was worth. Ace Insurance were aware of this as they had access to the questions asked and the answers provided by Mrs D. So, the agent would've been aware during the call that the £500,000 figure not only represented what Mrs D thought her property was worth, but also represented the figure on her current policy. That being the case, and given that Ace Insurance are the professionals here, I would expect them to have a greater appreciation and understanding of the difference between a property value and a rebuild figure – and what additional factors are taken into account when calculating a rebuild figure.*

*Those additional factors can sometimes lead to the rebuild figure being greater than a property value – so more information should've been given to Mrs D to help her appreciate and understand how a rebuild figure differs from the property value, and what factors she would need to take into account when estimating a rebuild figure. In this case, it's clear the insurer wanted to know the rebuild figure – so it's reasonable to expect Ace Insurance to make it clear to Mrs D that the property value must represent a reasonable estimate of the full rebuild cost. And they also should've helped Mrs D understand what that meant and how to estimate it. That could've included reference to an online calculator – which is what the loss adjuster later used.*

*Secondly, it's clear Ace Insurance would've been aware the £500,000 figure wouldn't represent an accurate rebuild estimate. I say this because, in policy documents sent to Mrs D after the call, there's a document which contains the heading 'Your duty to make a fair presentation of the risk' and sub-heading 'Sums insured'. This refers to steps Mrs D can take to get a true valuation of her property and says the insurer would add an inflationary increase each year. And Mrs D also confirms the loss adjuster recommended to her that she should add a 10% inflationary increase each year. That being the case, I can't see Ace Insurance brought this to Mrs D's attention during the call or suggested she apply a 10% increase to the valuation set out in the previous year's policy. The significance of this though is that, had this been discussed with Mrs D, it would've highlighted to her that £500,000 wasn't a realistic rebuild estimate and I believe it would likely have brought up a discussion about calculating a rebuild figure.*

*I've also taken into account that the agent gave Mrs D a personal recommendation on a policy they felt most suited her needs. That means Ace Insurance sold the policy on what's known as an 'advised sale' basis. That means they had to take reasonable care to ensure the suitability of their advice. Given the reasons I've provided above, in particular why Ace Insurance should've realised £500,000 was unlikely to be a sufficient rebuild figure, I don't think Ace Insurance asked relevant further questions or provided adequate guidance to help Mrs D understand how to provide a reasonable estimate for the rebuild value. And given that Ace Insurance had recommended the policy for her I think it was reasonable that she relied on their recommendation. It therefore follows that I think Ace Insurance mis-sold the policy as they recommended a product that wasn't suitable for Mrs D's needs.*

*I believe the information which Mrs D then received following the call further reinforced her belief that she'd answered the questions correctly. I say this because both the new business document and Policy Schedule that Ace Insurance sent to Mrs D refers to 'Buildings sum insured' as £500,000. This doesn't provide any explanation about Mrs D needing to ensure this figure represents a full rebuild cost. It's clear from the information provided by Ace Insurance they understood what figure this should represent and, given they operate in the buildings insurance market, would've understood how to calculate this rebuild cost. So, given that Mrs D wasn't*

*given clear information about this, I don't agree with Ace Insurance's argument that Mrs D didn't take reasonable care to provide accurate information.*

*Ace Insurance say, in a number of policy documents sent to Mrs D, it was made clear that she must ensure all information she'd provided was correct and accurate. They refer to information contained on the Quotation Schedule and Statement of Fact. I have carefully considered the relevant notices Ace Insurance refer to and also note the Statement of Fact contained a heading 'Underinsurance' which then says, "You must declare the full value of goods or property insured. Failure to do so may invalidate your policy or reduce claim settlements."*

*While I accept the notices do set out the importance of ensuring all information provided is accurate and the consequences of not doing so, for the reasons I've explained above, I don't believe Mrs D had any reason to suspect she'd provided inaccurate information when she answered the question about the value of her property. And for the reasons I've mentioned, and based on what they knew, I believe it was Ace Insurance's responsibility to provide Mrs D with further guidance about estimating a rebuild value.*

*I can see Ace Insurance also refer to a section of a new business acceptance document issued to Mrs D. This contains a section headed 'Your duty to make a fair presentation of the risk' and says, "You must make a fair presentation of the risk to us when you take out, renew or amend your policy. A fair presentation requires you to tell us about all facts and circumstances which may be material to the insurance...Material circumstances are those which are likely to influence an insurer in the acceptance or assessment of the terms or pricing of your policy."*

*It goes further and under a sub-heading 'Sums insured', it says, "It is essential that sums insured or declared values are maintained at an adequate level. Failure to do so could result in a claim being settled at a reduced amount or not at all. If the property is on a day-one or re-instatement basis (new for old), the declared value/sum insured must represent the cost of replacing the insured property as new (including the amount for debris removal costs and architect's & surveyors fees if buildings are insured.) Where property is insured on an indemnity basis (second-hand), a claim settlement will take into account deductions for depreciation, wear & tear age and condition of the property and the sum insured calculated on that basis. We recommend you get the buildings valued by a surveyor with experience of insurance valuations. The valuation exercise should be repeated every three to five years, as although insurers may index-link the sum insured each year, this is based on national indices and the actual cost changes do vary on a regional basis. So over time, your rebuild value may vary from the buildings true valuation." It goes further to say, "A condition known as "average" would apply in situations where you are found to be under-insured..." and it then goes on to provide an example of how the average clause would apply.*

*There is reference here to some factors Mrs D should take into account when considering the sum insured value, this includes debris removal and expert fees. But this relates to a property on a day-one or reinstatement basis – and it's not clear whether this applies to Mrs D's policy. In the 'Risk Details' section of this document, it refers to the 'Buildings Basis of Cover' as being 'Standard'. So, I'm not persuaded the information here made it clear to Mrs D that she would need to think about these additional factors for her own policy.*

*Ace Insurance also say this document recommends Mrs D get her property valued by a surveyor with experience of insurance valuations, and for this to be repeated every*

*three to five years. I don't think this goes far enough for me to be persuaded that Ace Insurance had provided adequate guidance to help Mrs D understand that the insurer needs to know the full rebuild value and what steps Mrs D can take to ensure she has taken reasonable care to answer this. In the circumstances of this case, I believe it would've been reasonable for the agent to have made it clear to Mrs D during the call that the insurer needs to know the rebuild value, how this differed from the question Mrs D answered about the property value and what steps she could take to help estimate this figure.*

*I set out above the test I expected Ace Insurance to meet, but from the information I've seen, I think they've failed in their duty to provide Mrs D with information which is clear, fair and not misleading. Given that I'm persuaded Ace Insurance haven't met their responsibilities here – and had they done, I believe Mrs D would likely have reached a reasonable rebuild cost and would likely then have been fully insured with her insurer or another when it came to making her claim – Ace Insurance should pay compensation equivalent to the shortfall Mrs D has been left with. The information I've seen at this stage shows that the insurer has agreed to meet 73% of Mrs D's claim – so Ace Insurance should make up the 27% shortfall in the claim payment here, although any excess can still be deducted.*

*Mrs D was left very upset and frustrated when she was informed she was underinsured and then later identifying that Ace Insurance hadn't provided her with sufficient guidance to help her understand the significance of a rebuild value and how to go about estimating this to the best of her ability. So, given the impact on Mrs D, I think Ace Insurance should pay her £150 compensation."*

So, subject to any further comments from Mrs D or Ace Insurance, my provisional decision was that I was minded to uphold this complaint and require Ace Insurance to put things right.

Following my provisional decision, Mrs D has confirmed she has no further comments. Ace Insurance have responded and say, while Mrs D did complete an online form setting out the value of her property, Ace Insurance took additional steps to ensure the accuracy of this information by calling Mrs D to confirm whether £500,000 was sufficient for rebuilding her property. Ace Insurance say, if Mrs D didn't understand the question regarding the rebuild cost, she had the opportunity to seek clarification from the agent who called, but Mrs D didn't. Ace Insurance say, they therefore had no reason to believe that Mrs D was unclear about the meaning of rebuild cost.

Ace Insurance say, had Mrs D given any indication that the figure of £500,000 was misunderstood they would've, as standard practice, directed Mrs D to the Building Cost Information Service ("BCIS") calculator for determining the rebuild cost. They say it's also speculative whether Mrs D would've used this tool in any event. Ace Insurance also say the policy terms and conditions aren't drafted by them so responsibility for the policy wording lies with the insurers. They say it's unreasonable to hold Ace Insurance responsible for the policy wording.

### **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.

Having done so, I see no reason to depart from my provisional decision. So, I've decided to uphold the complaint for the reasons set out in my provisional decision and copied above.

I accept Ace Insurance went beyond just relying on the information on the online form and did call Mrs D to clarify some points – one of those points being the figure of £500,000 she'd entered in response to a question about the value of her property. Ace Insurance say if Mrs D didn't understand their agent's question about the rebuild cost, she could've asked for clarification and, because she didn't, they didn't therefore have any reason to believe Mrs D was unclear about this point. I acknowledge what Ace Insurance say here, but I don't agree with their points. As I've mentioned in my provisional decision, the way in which the agent tried to clarify this point involved asking Mrs D a question and presenting her with two options to select her response from. One of those options was 'rebuild figure'. And given that Mrs D didn't choose this option – and Ace Insurance would've been aware this is the figure which is important to the insurer – Ace Insurance should've realised that Mrs D didn't perhaps appreciate the difference between the figure she'd given and the rebuild figure.

Given that Mrs D answered the question by explaining the £500,000 figure was based on what she has on her current policy, I think this demonstrates Ace Insurance were effectively told £500,000 wasn't the rebuild figure. I think it would've been reasonable therefore in the circumstances for Ace Insurance to then provide more clarity on what a rebuild figure is – and specifically including, providing appropriate guidance and support about how to estimate it. So, I think, based on this conversation between Mrs D and the agent, Ace Insurance were given reason to believe Mrs D was unclear about the meaning of rebuild cost.

I acknowledge what Ace Insurance say about the BCIS calculator and whether Mrs D would've used this. I've already mentioned above why I'm persuaded Ace Insurance should've realised that Mrs D had misunderstood the relevance and importance of a rebuild figure so, given that Ace Insurance say it's their standard practice to direct customers to the BCIS calculator, I think that should've happened here. I note Ace Insurance question whether Mrs D would've used it in any event, but I don't think that's relevant here. What's important here is Ace Insurance's duty to provide information which is clear, fair and not misleading. And in the circumstances of this case, that would've meant providing Mrs D with more information to help her appreciate and understand how a rebuild figure differs from the property value, help Mrs D understand what factors she would need to take into account when estimating a rebuild figure and, in view of their standard practice, direct Mrs D to the BCIS calculator. It is of course open then to a customer to choose whether they wish to use the online calculator at all, but they do so on the basis they're now in a better position to make an informed decision.

In relation to the points made by Ace Insurance regarding the policy wording, I think it's important to clarify, I'm not holding Ace Insurance responsible for any policy wording, and I'm also not upholding this complaint based on the way any of the policy wording has been drafted. The reference I've made to the policy wording was to explain why I don't believe sections of the policy documents sent to Mrs D would've highlighted to her that she hadn't taken reasonable care to provide accurate information to Ace Insurance. The reason I'm upholding this complaint, and referred to above, is because I think Ace Insurance failed in their duty to provide Mrs D with information which is clear, fair and not misleading.

I wish to reassure Ace Insurance I've read and considered everything they've sent in, but if I haven't mentioned a particular point or piece of evidence, it isn't because I haven't seen it or thought about it. It's just that I don't feel I need to reference it to explain my decision. This isn't intended as a discourtesy and is a reflection of the informal nature of our service.

### **Putting things right**

I've taken the view that Ace Insurance didn't provide sufficient information or guidance to help Mrs D understand the insurer required a rebuild figure and how to estimate it. This left Mrs D underinsured. So, Ace Insurance should pay Mrs D compensation equivalent to the

shortfall Mrs D has been left with. The information at this stage suggests the insurer has agreed to meet 73% of the claim, so if that's the case, then Ace Insurance should meet the remaining 27%. In any event, and whatever percentage of the claim the insurer ends up paying because of the underinsurance, Ace Insurance should pay Mrs D compensation equivalent to any shortfall Mrs D is left with, although any excess can still be deducted. It's clear Mrs D has also been left very upset and frustrated as a result of being left underinsured because she didn't receive adequate guidance from Ace Insurance. So, Ace Insurance should pay Mrs D £150 compensation.

### **My final decision**

My final decision is that I uphold the complaint. Ace Insurance Services Group Ltd must take the steps in accordance with what I've said under "Putting things right" above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D and Mrs D to accept or reject my decision before 14 July 2024.

Paviter Dhaddy  
**Ombudsman**