

## **The complaint**

Mr C has complained that the broker ST&R Limited mis-sold a home and buildings insurance policy to him.

Miss K is representing Mr C in the complaint.

## **What happened**

Mr C bought a home and buildings insurance policy through a broker, ST&R in October 2021. The sale was advised.

In 2023 Mr C made a claim for damage to the insurer. The insurer discovered that the building was underinsured. The insurer decided that the information given to them about the rebuilding sum insured had been deliberately and recklessly misrepresented. So they avoided Mr C's policy from outset as they said they wouldn't have offered a policy if they knew the correct rebuilding sum insured (which was over their maximum rebuilding limit). This meant Mr C's claim wasn't covered.

Mr C has raised a complaint about the insurer, which this service has investigated separately.

Mr C complained to the broker. He said it had mis-sold a policy to him.

ST&R Limited didn't uphold Mr C's complaint. It said when Mr C took the policy out, it wasn't informed of the correct rebuild cost of the property.

Mr C asked us to look at his complaint. Our Investigator recommended the complaint should be upheld. Having listened to the sales call, he found ST&R hadn't requested correct information or explained that the insurer required the rebuild cost of the property when asking questions of Mr C. The Investigator found ST&R has asked Mr C what he had paid for the property – and if cover of £1 million was enough.

So he recommended ST&R effectively step into the shoes of the insurer to deal with Mr C's claim, as the insurer had declined it by appointing a loss adjuster to deal with the claim under the remaining terms and conditions. And he recommended ST&R provide Mr C with a letter confirming the policy was avoided as a result of ST&R's actions.

For obtaining comparable cover in the future, the Investigator recommended ST&R pay the difference in the cost of insurance. And he recommended ST&R pay Mr C £300 compensation for the distress and inconvenience caused.

ST&R didn't agree. In summary it says;

- Mr C had access to a recent Homebuyers report which set out the reinstatement sum insured, so he was aware of the correct rebuild sum.
- The insurer avoided the policy for more than this reason: it would have avoided the policy for a change in use which Mr C hadn't declared after he bought the policy.
- It doesn't agree it should have to deal with all of the claim, as the insurer's policy wording says it will deal with a percentage of the claim where underinsurance occurs. So it believes the insurer should have paid part of the claim.
- It believes it took sufficient steps to ensure the customer provided correct

information. Rebuild costs for a home are generally 10% below the purchase price as industry standard.

Mr C and Miss K accepted the Investigator's findings.

As ST&R didn't agree, the case has been passed to me to decide.

### **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've listened to the sales call between Mr C and ST&R.

Mr C explained that he had moved into his new home about a week ago and needed to insure it. The agent asked Mr C how much the property was worth. Mr C said £780,000.

The agent then said;

*“So if we were to insure the property for £1million, for absolutely everything, would that be enough cover for you or not?”*

Mr C responded: *“It would be because the biggest barn outside – I've got separate business cover for £1million already.... So what you're saying is fine.”*

ST&R acted for Mr C when it sold the policy to him. So I've looked at what the insurer required the broker to obtain from Mr C when selling the policy to him. The key part of the policy says:

#### *“Underinsurance*

*The sum insured for buildings should reflect the full cost of replacing the buildings and the sum insured for contents should reflect the full cost of replacing your contents as new. If this is not the case, then you will have to pay a share of the claim; for example if the sum insured only covers three quarters of the full cost, we will only pay three quarters of the claim.”*

At no point during the sales call – or in the demands and needs or disclosure questions set out in the 'welcome' documents - did ST&R ask Mr C what the rebuild costs would be. Given the consequences of being underinsured, this is something a broker should ask clear questions about when selling a suitable policy to a customer.

ST&R told us;

*“The rebuild cost is generally less than the property valuation. So, when the customer advised that they had recently purchased the property for £780,000, the advisor would assume that the £1million cover would be adequate to cover any rebuild costs. The advisor would take the customer's valuation figure on face value.”*

I don't think ST&R treated Mr C fairly when it sold the policy to him as it failed to properly fact find when arranging the policy it did. The policy it sold Mr C was limited to providing a building sum insured of up to £1million. The price Mr C paid for the property wasn't relevant to the insurer. No assistance or advice was given to Mr C in relation to the buildings sum insured requirement for the insurer. Mr C answered the questions the broker asked.

ST&R say this wasn't the only reason why the insurer avoided the policy. But the fact remains that it was the first – and applied from the outset of the policy.

I realise ST&R doesn't agree with the insurer's decision to avoid the policy and not meet any of the claim. But the insurer made this decision due to deliberate and reckless misrepresentation. Under the Consumer Disclosure and Information Act (CIDRA), the insurer is entitled to reject the claim and avoid the policy where it finds the misrepresentation to be deliberate or reckless.

So I find that due to ST&R failing to ask appropriate questions of Mr C in order to sell a suitable policy, incorrect information was passed to the insurer leading to the avoidance and rejection of the claim. So the fairest outcome is for ST&R to put things right.

This means I agree with the Investigator's recommendations as I've set out below, and which Mr C and Miss K accept.

### **My final decision**

My final decision is that I uphold this complaint. I require ST&R Limited to do the following:

- appoint a loss adjuster to consider the claim as if the policy was still in force and should the claim be deemed valid, ST&R to meet the costs of the claim.
- Pay the equivalent difference in price between any new policy Mr C had to take out following the avoidance of their policy on the condition that this be similar in coverage to the one avoided. ST&R should pay interest on the difference Mr C had to pay due to having to declare an avoided policy.
- pay Mr C £300 compensation for the distress and inconvenience caused.
- provide Mr C with a letter confirming the avoidance of the policy was due to ST&R's actions.

ST&R Limited must pay the compensation within 28 days of the date on which we tell it Mr C and Miss K accept my final decision. If it pays later than this it must also pay interest on the compensation from the date of my final decision to the date of payment at a simple rate of 8% a year.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C and Miss K to accept or reject my decision before 17 October 2024.

Geraldine Newbold  
**Ombudsman**