

The complaint

Mrs H has complained that The National Farmers' Union Mutual Insurance Society Limited (NFU) mis-sold her home insurance policy after it declined a claim for damage to her boundary wall.

What happened

Mrs H made a claim under her Home Insurance policy, which is underwritten by NFU, after the boundary wall of her property collapsed because a tree root had grown through it.

NFU declined the claim on the basis that the damage hadn't been caused by an insured event covered by her policy. It highlighted that Mrs H didn't have accidental damage cover, and that the subsidence cover excluded damage to boundary walls unless the main property was damaged at the same time and by the same cause.

Mrs H is unhappy with the claim decision. She's also said the policy was mis-sold and that the documents provided at the point of sale weren't clear enough for her to understand the cover she purchased. Mrs H has also complained that she was told she'd need to pay for a loss adjuster to attend her property, and that she wouldn't need to disclose this claim to future insurers.

Our investigator considered the complaint and noted that some of the issues Mrs H was complaining about had been raised out of time under the rules set out by the industry regulator – the Financial Conduct Authority (FCA). She asked NFU whether it would consent to us considering the issues, even though they'd been referred too late, and it confirmed it consented.

Our investigator didn't think Mrs H's complaint should be upheld. She said she'd listened to the sale calls and was persuaded Mrs H wasn't given advice. She also said she felt the information provided was sufficiently clear and that Mrs H could have asked if there were points she didn't understand.

In terms of the claim decision, our investigator agreed that there was no cover under the policy for the damage which had been caused. She also said NFU hadn't told Mrs H she needed to pay for a loss adjuster. Our investigator accepted that NFU could have given clearer advice about whether Mrs H would be required to declare the claim to future insurers. But she noted that Mrs H had done so regardless, when taking out her next policy, and so hadn't been caused any detriment.

Mrs H didn't accept our investigator's findings. So, as no agreement could be reached, the complaint was passed to me to decide.

I was minded to reach a slightly different outcome to our investigator, and to award some compensation for poor customer service. I issued a provisional decision to give the parties the chance to reply, before I reached my final decision. Here's what I said:

“What I’ve provisionally 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, and while I appreciate it will come as a disappointment to Mrs H, I agree with the outcome reached by our investigator. I’ll explain why address the complaint issues separately.

The claim decision

While Mrs H has complained that her policy was mis-sold, in my view, the key issue at the heart of her complaint is the claim decision.

Mrs H’s wall collapsed due to a tree root growing through it. NFU explained that the policy excluded damage which happened gradually (wear and tear). It highlighted that this damage could potentially have been considered under the optional accidental damage section of cover but explained that Mrs H hadn’t taken this out.

Mrs H wanted the claim to be considered under the subsidence section of cover. But subsidence is the downward movement of the ground beneath a property. This can sometimes be caused by tree roots sucking up the moisture within the underlying ground and causing it to shrink. But a tree root causing direct damage to a wall, by growing into it, is not the same as subsidence. So, I don’t think NFU’s decision that the damage wouldn’t be covered under the subsidence section was incorrect or unfair either.

I can also see that NFU highlighted an exclusion under the subsidence section for damage to boundary walls unless the main property was damaged at the same time and by the same cause. Had the damage to the wall been caused by subsidence, I think it’s likely this exclusion would have applied, as I’ve seen no evidence of subsidence damage to Mrs H’s main property. But as explained, the damage being claimed for hasn’t been caused by subsidence, or any other insured event covered by Mrs H’s policy, and that’s ultimately the reason the claim hasn’t been accepted.

Taking all of the above into account, I’m satisfied NFU’s decision to decline the claim for damage to the boundary wall was in line with the policy terms and was fair and reasonable in the circumstances.

Mis-sale

Mrs H says the policy was mis-sold to her. She also says the policy information provided during and after the sale is too large, unclear, and confusing.

I’ve listened to the sales call and reviewed the policy information provided during and after the sale. Both the call handler and the policy literature make it clear that the sale is non-advised. This means NFU needed to provide Mrs H with enough clear information for her to make an informed choice. But it was not required to make tailored recommendations to suit her specific needs.

During the call, Mrs H made it clear that she wanted sufficient cover for her property, but also that she was keen to keep the costs down. She asked for various quotes based on increasing the level of voluntary excess which demonstrates that the price was a key factor in her decision.

The call handler told Mrs H that she could choose to remove the optional accidental damage cover, to further reduce the price, if she wanted to. He gave an explanation and examples of what accidental damage to buildings and contents would cover, and Mrs H said she could see the benefits of accidental damage to contents, but not so much to buildings. She said she thought she'd be unlikely to utilise cover for accidental damage to buildings and so she decided not to include it. I'm satisfied, having listened to this call, that the call handler did not provide Mrs H with advice. Rather he provided her with enough information to make an informed choice about whether she wanted to remove accidental damage cover, which she did.

In terms of the clarity of the policy literature, I can see that Mrs H was provided with a statement of insurance, an insurance schedule, the policy booklet and insurance product information documents (IPIDs) when taking out the policy as well as a summary letter explaining what each of these documents was. This is fairly standard information to be given when taking out an insurance policy.

I know Mrs H would have liked shorter or more concise information. But home insurance policies cover lots of circumstances, and include lots of terms, conditions and exclusions – so it's not uncommon or unreasonable for policy booklets to be large documents. This is, in part, why insurers also provide IPID documents which summarise the key elements of cover and highlight any key, unusual or onerous exclusions. But at the point of sale, it's not possible for an insurer to know which exclusions might end up being specifically important to each individual customer. So, I don't think it's surprising, or unfair, that Mrs H's IPID didn't highlight all the exclusions which might've been relevant to the particular claim she ended up making. I note the IPID did include the exclusion for damage which happens gradually (wear and tear).

Mrs H also pointed out the IPID explained 'walls' were covered under her buildings insurance, which led her to believe that the policy was suitable for her needs. But I note the IPID explained that it was not tailored to Mrs H's cover and didn't form part of her contract. It pointed her to the policy booklet to fully understand the contract. I also note that the cover letter and policy schedule Mrs H was provided stated that all of the documents provided needed to be read in conjunction to fully understand the cover provided – and this again is not uncommon or unfair.

When read in conjunction, I think it's clear that while the definition of a building includes 'walls', subsidence cover to a boundary wall is excluded unless the main property is damaged at the same time by the same cause. But I'd also reiterate here that the cause of damage to Mrs H's walls wasn't subsidence and so this exclusion isn't actually relevant to the claim decision which was ultimately reached. The claim was declined as the type of damage caused wasn't covered under any part of the policy.

I know Mrs H would have preferred for her insurance schedule to link to the relevant sections of the policy booklet, or to specify the applicable pages most relevant to the cover. She says it's unclear which parts of the schedule relate to which section of the policy booklet. I accept her suggestions would likely make the policy information clearer and easier to navigate. But I don't agree that the way it is actually set out makes it unreasonably unclear or difficult.

I say this because the policy schedule refers to the 'buildings' cover, and 'buildings' exactly matches the heading of the relevant section of the policy booklet and the table of contents. So, I don't think it would be unreasonably difficult to locate the relevant section of the policy booklet to check the cover provided under the 'buildings' section. I also note that the schedule mentions the excess fees applicable under various insured events within the buildings section – and the wording of these insured events also exactly matches the ways they are worded within in the policy booklet.

As explained, the 'buildings' section of Mrs H's policy booklet is the section which explains the cover provided. This sets out specifically 'what is insured' and 'what is not insured' under separate headings for each of the insured events it covers, including subsidence and accidental damage. I appreciate this information is on page 17 of a 60+ page document. But as already mentioned, there is a table of contents (on page three) which clearly sets out where information can be found about policy exclusions, 'buildings' and 'contents'. So, again, I don't think it's unreasonably difficult to check the relevant cover provided under each section of the policy mentioned on the schedule.

I do fully appreciate Mrs H said she found the information unclear, and I sympathise. But overall, I don't think Mrs H's policy information was unfairly or unreasonably unclear.

Taking all the above into account, I'm satisfied NFU sold the policy on a non-advised basis and that it provided Mrs H with enough clear information to make an informed decision on the cover she wanted at the point of sale. So, I don't agree that the policy was mis-sold to Mrs H.

Advice and communication

Mrs H is also unhappy with the advice and communication she's received from NFU throughout her claim and complaint. She says she was told a loss adjuster couldn't be sent out to investigate the damage unless she paid for it, and that she wouldn't need to declare the claim to future insurers – which isn't correct.

I've listened to the relevant call recordings around the loss adjuster and advice elements. Having done so, I don't agree Mrs H was told a loss adjuster couldn't be sent. Instead, she was told NFU could send a loss adjuster, but this would mean the claim would be logged with a claim spend (the adjuster's fee) and this might impact her premiums going forward. NFU also explained that the policy had a £1,000 excess, so any claim below this would not be covered. I think the advice given was accurate in the circumstances.

In terms of the advice Mrs H received around whether she needed to declare the claim to future insurers, I do agree that incorrect advice was given. This is because the call handler told Mrs H she wouldn't need to say she had made a claim, because the claim wasn't paid – which isn't correct. The information Mrs H would need to declare to a potential new insurer would fully depend on the questions she was asked. So, I think that's what she ought to have been told.

However, like our investigator, I can see that Mrs H did declare this information to her new insurer when asked. So, while I appreciate her unhappiness with the advice, and how she might have been impacted by it, I'm not able to compensate her for something which might have happened, only the impact of something which did happen. And I'm not aware that Mrs H has been detrimentally impacted by this incorrect advice.

In addition to the above, Mrs H says communicating with NFU throughout her claim and complaint has been difficult, that she's had to chase for responses multiple times and that complaint responses haven't always addressed her concerns adequately. I can see there were several occasions where Mrs H did chase NFU for responses to her communications. And I can see that NFU did need to issue three separate final response letters in order to address the concerns she raised.

Mrs H raised all her concerns multiple times over the phone before the first final response letter was issued. And in her response to NFU's first final response letter, Mrs H provided a detailed response, which highlighted that NFU had failed to answer all her concerns and reiterated what the key points she was unhappy with were. Despite this, NFU's second final response also failed to address all those key concerns and it wasn't until the third final response letter that NFU had addressed the main issues. I can understand how this would be frustrating and distressing for Mrs H.

I think NFU could, and should, have done better here. And had it done so, Mrs H would not have experienced the same level of distress and inconvenience that she has done. So, I'm currently minded to uphold this element of Mrs H's complaint and to direct NFU to pay her £100 compensation. I think that amount is sufficient to reflect the additional, avoidable, distress and inconvenience she experienced solely as a result of the communication and complaint handling issues."

I asked both sides to send me any further evidence or arguments they wanted me to consider before I reached my final decision.

Mrs H provided a response setting out the reasons she wasn't happy with my provisional conclusions. To summarise, she said:

- She didn't expect a policy tailored to her needs, but she did expect one she could rely on for ordinary risks which might occur.
- NFU's reassuring and quick sales technique lulled her into a false sense of security, but the policy was ultimately useless.
- She's unhappy it's being made out that she wanted the claim to be recorded as subsidence. She did not, she was simply keeping NFU updated about an ongoing situation.
- The policy is set out in an overcomplicated way.
- She might not have been given advice during the sale, but the agent certainly influenced her decision to increase her excess.
- I've acknowledged her suggestions would likely simplify the policy; she'd like me to pursue this.

- She was not simply given incorrect advice about declaring the claim, she was deceived and then NFU tried to cover up the deception.
- When she spoke with the call handler at NFU about a loss adjuster, she is sure that if she misunderstood the agent recognised this but made no effort to help her understand.
- £100 compensation is insufficient. She has felt sick every time she needed to deal with NFU and still suffers from stress related headaches and insomnia as a result of her experiences.
- NFU continued to pursue her to renew her policy even after she had explained she didn't intend to renew.

NFU hasn't provided a response to my provisional decision, and the deadline to do so has now passed. So, I'm moving forward with my 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.

I've also carefully considered the responses to my provisional decision. But having done so, my conclusions remain the same. I'll explain why.

I don't intend on commenting on every individual point Mrs H raised in response to my provisional decision. Instead, I'll focus on what I think is key when reaching a final decision on what I consider is fair and reasonable in all the circumstances of the case. I don't mean this as a discourtesy, rather it reflects the informal nature of this service and my role in it. But I'd like to reassure both parties that I've considered all the information they've provided when reaching my final decision

I understand that Mrs H feels very strongly about her complaint. But I already set out in detail in my provisional decision the reasons why I didn't think her policy was mis-sold and that I didn't think her claim would be covered under the policy she had. None of her points have changed these conclusions.

I don't agree with Mrs H that the policy she bought was useless, or that it wouldn't have responded to the typical insured events I'd expect to see covered under a policy of this nature. But all policies will vary slightly, and insurers are entitled to include exclusions for risks they are not prepared to insure – this isn't unusual or unfair.

In terms of whether Mrs H asked for the claim to be considered under the subsidence peril or not, I based this on the call she had with NFU's agent in February 2023 where she suggested the claim should be considered under the subsidence peril. I do accept that she later accepted the damage was not the result of subsidence. But as the clarity of the exclusion relevant to subsidence damage to walls remained a key element of the complaint, I thought it appropriate to also address whether the claim would be covered under the subsidence peril or not.

Mrs H has said she'd like me to pursue amendments to NFU's policy literature in line with her suggestions, on the basis I acknowledged they'd likely have made it clearer. But I should explain here that doing so is outside of the scope of the Financial Ombudsman Service's role. We aren't the industry regulator, that's the Financial Conduct Authority (FCA). And in any event, whilst I acknowledged that Mrs H's suggestions would likely have made the policy information clearer and/or easier to navigate, my ultimate finding was that the policy wasn't unreasonably or unfairly unclear or difficult to navigate.

Mrs H says she was not simply given incorrect advice about whether she'd need to declare the claim. She says she was deliberately deceived and then this was subsequently covered up. Again, I can understand Mrs H's strength of feeling about her claim and complaint. But I haven't seen any evidence which would lead me to conclude that Mrs H was deliberately mis-led, nor that there was a deliberate attempt to cover anything up.

NFU said Mrs H was told there was no cover and so no valid claim to disclose. It said Mrs H was not told she would not need to tell future insurers about what happened. While this is strictly correct, I disagreed that the advice Mrs H was given was clear enough, because I thought it should have been made clearer that the information she'd need to provide would depend on the questions asked, and I maintain this finding. But I don't agree this means Mrs H was deliberately deceived nor that anything was attempted to be covered up.

Mrs H has also said the agent she discussed the loss adjuster with ought to have recognised if she misunderstood anything and done more to help her understand. But having re-listened to the call, I think the call handler explained things clearly and that Mrs H appeared to understand the implication of NFU appointing a loss adjuster if there was no valid claim. So, I can see why the advisor wouldn't have offered additional explanations.

In terms of the compensation award I provisionally made, this was to recognise the impact of NFU's failure to address all the complaint issues, even after Mrs H had highlighted they had been missed in the first final response letter. I fully appreciate the impact of the claim as a whole is significantly greater. But I've already explained that I think the claim decision was ultimately correct, that the policy information is sufficiently clear and that the policy wasn't mis-sold. So, while I fully understand and sympathise with the distress Mrs H has had to experience, I don't think the vast majority of it stems from anything NFU has done wrong. Rather, it stems from the fact her wall was damaged in the first place, and that there isn't any cover for that within her policy.

I acknowledge the customer service Mrs H received around making her complaint could have been better and that this would have added to an already difficult situation. But I remain of the view that £100 compensation is sufficient to reflect the impact solely caused as a result of these communication issues.

Finally, Mrs H has complained that NFU continued to chase her to renew her policy despite her making it clear to one of its call handlers that she didn't intend to renew, and that when she contacted them to again explain her intentions, she felt she was being mocked.

It doesn't appear that this complaint point is one which has been put to NFU nor responded to by NFU in a final response letter. Because of this, this complaint point falls outside the scope of this particular complaint. If Mrs H wishes to pursue this complaint point, she should first raise her concerns about it with NFU. Should she remain unhappy with the response to this hypothetical future complaint, Mrs H will be able to refer her concerns about this to the Financial Ombudsman Service, subject to our normal rules and timescales.

My final decision

For the reasons I've explained above, and in my provisional decision, I uphold Mrs H's complaint in part.

The National Farmers' Union Mutual Insurance Society Limited must pay Mrs H £100 compensation for the distress and inconvenience it's poor communications have caused her.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 27 August 2024.

Adam Golding
Ombudsman