

The complaint

Mr M has complained about his home insurance broker Adrian Flux Insurance Services Group because, when he arranged insurance cover via it through a price comparison website, subsidence cover was excluded.

What happened

Mr M's home insurance was coming to renewal, he was looking for alternate cover. Mr M entered his details on a price comparison website (PCW). He was offered several quotes at different prices, the lowest price being for a policy arranged via Adrian Flux. The policy via Adrian Flux couldn't be finalised through the PCW, Mr M had to call Adrian Flux. It wanted to know some more details about a subsidence incident Mr M had shared some details about on the PCW application page.

When Mr M spoke to Adrian Flux he explained the subsidence had occurred eight years ago and had been minor, resolved by removing a bush. Adrian Flux's call handler assured Mr M that was fine and that his policy was all set up to start in a week's time, at the point Mr M's previous cover was due to lapse. Mr M was expecting to see policy paperwork come though, when he didn't receive it, he called Adrian Flux again, twice. He was assured his cover was all in place and documents would be sent.

Mr M received the documents late on the day before the new policy was due to commence. On checking the documents he found an exclusion had been added to remove subsidence cover. He called Adrian Flux. It's call handler said that had all been done by the PCW – that Mr M must have agreed to the exclusion on the PCW site. Mr M said that wasn't the case – he emphasised he'd spoken to Adrian Flux to finalise the cover. Adrian Flux's call handler said that, having checked with the insurers it had access to, it could arrange a policy for Mr M which did include cover for subsidence, but it would cost a little more, an extra £150. Having reviewed his options Mr M agreed to switch the policy but he remained upset about what had happened – particularly that Adrian Flux was refusing to accept any liability for the situation.

Adrian Flux issued a final response to Mr M. Adrian Flux said the policy was already in place when he spoke to it, so it hadn't done anything wrong. It said it was sold on a non-advised basis, and if Mr M had any issues with the way it was sold, he'd have to take that up with the PCW. But it said it would offer £50 compensation to Mr M as a goodwill gesture. Mr M complained to the Financial Ombudsman Service.

Our Investigator felt Adrian Flux's response was fair and reasonable. So he didn't uphold the complaint. Mr M remained unhappy. His complaint was referred for to me an Ombudsman's consideration.

I felt Adrian Flux had failed Mr M. I issued a provisional decision to explain my views to both parties, as well as to set out how I felt things should be put right. My provisional findings were:

“This policy did begin to be arranged via a PCW. But this Service has long held that an insurer or broker choosing to sell cover via a PCW is responsible for that sale because they are actively allowing that PCW to sell their policies. In short, the PCW becomes their agent.

I note Adrian Flux has argued the policy was sold on a non-advised basis. So the PCW sold the policy to Mr M on a non-advised basis on behalf of Adrian Flux. Being non-advised means that Adrian Flux didn't have to complete extra checks to make sure the policy was right for Mr M. Rather the policy was offered and it was up to Mr M to make sure it was right for him.

Often the PCW will show a prospective policyholder a copy of their policy documents when the sale is 'agreed'. However, in this case, the sale wasn't 'agreed' via the PCW because Adrian Flux needed to ask some extra questions about the subsidence cover. When that call occurred Mr M wasn't talked through his policy, the significant and unusual exclusion for subsidence wasn't advised to him and whilst it was promised that the paperwork would follow that didn't happen. Not until it was too late for Mr M to do anything before the policy commenced.

When Mr M called Adrian Flux on the day the policy started, he was met with a resistant and dismissive call handler who initially blamed Mr M for the position he had found himself in. That did change and the call handler was able to check with other insurers and cover was found for Mr M which included subsidence. Mr M subsequently agreed to that cover and he was provided with a policy which included subsidence.

All of which says to me that if Adrian Flux had told Mr M about the significant and unusual exclusion for subsidence, this whole situation of upset and frustration for Mr M could have been avoided. And, importantly, advised sale or not, Adrian Flux had a duty to tell Mr M of the significant and unusual term. The policy documents do say, against the sum insured for subsidence “N/A” and the exclusion removing subsidence cover is detailed. But it isn't given any prominence or highlighted. I think its lucky that Mr M was a prudent and observant policyholder, that he noticed it once the paperwork had been received. Again, if Adrian Flux had sent the paperwork out earlier, when it initially promised to do so, Mr M could have acted to avoid the policy starting.

I've heard the calls Mr M had with Adrian Flux. I can see he was worried and concerned that whilst cover was due to start, he hadn't had the paperwork through. I can see he was perplexed in his second call with it when the handler seemed not to know he'd answered its questions about subsidence the week before. I can also hear the disbelief and frustration in his voice during the call when he'd found the exclusion. I am pleased that Adrian Flux resolved the matter for Mr M – but as I said, if Adrian Flux had told him of the exclusion in its first call, he could have said that wasn't agreeable and the alternate cover which Adrian Flux arranged a week later, could have been put in place. I think Adrian Flux should pay Mr M £300 compensation for the upset caused.

I also think Adrian Flux needs to provide a letter to Mr M. It's possible that, in the future, when arranging insurance, he may be asked if he's ever had terms added to cover. Strictly speaking that is what happened here because, as Mr M has pointed out, subsidence is offered as standard and the insurer offering the policy via Adrian Flux, added an exclusion to Mr M's policy to remove the cover. That may have an impact on Mr M for future cover. So Adrian Flux should write a letter which explains the term was added due to its error – that Mr M would never have had a term added to a policy if it hadn't failed him.

I'm not going to require Adrian Flux to reimburse the extra cost Mr M had for the policy which includes subsidence. I think this was the price he'd always have paid if Adrian Flux hadn't failed him in the way I've described above. And in saying that I bear in mind that the sum

Mr M eventually paid for cover matches almost exactly the second highest price quoted by the PCW (although what that cover included isn't shown)."

Mr M said he was happy with the decision. Adrian Flux said it accepted that some things could have been handled better. It said, however, that it believes Mr M could have seen all the policy documents during the on-line process – it says there's no reason for it to believe that did not happen. Adrian Flux said that it otherwise felt the compensation award was high, especially as Mr M had suffered no financial loss. It said as Mr M had not exercised his cooling off rights and had progressed with the policy, he must be happy with it, in its view £150 is a fair and reasonable compensation sum.

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.

It is far from clear what Mr M saw, or what was made available for him to see when he began the buying process on-line. What is clear is that the policy's sale could not complete on-line – that had to be done by Mr M calling Adrian Flux. I'm satisfied that, in these calls, Adrian Flux then failed Mr M.

I must say I'm quite surprised to see Adrian Flux argue that as Mr M did not exercise his cooling off rights, he must have been happy with the policy. Mr M was not happy with the policy, so Adrian Flux found him alternate, more expensive cover which did include cover for subsidence. Which was a policy that Mr M was happy with. And which could have been offered to Mr M earlier, had Adrian Flux not failed to highlight the significant term added to the original policy which removed all subsidence cover.

Our awards are made based on the individual circumstances of the case being considered. My award is made in respect of distress and inconvenience, not financial loss. An award of up to £300 is made where there've been repeated small errors requiring a reasonable effort to sort out, with stress being caused over a few hours, or days. I'm satisfied that is what happened here for Mr M and that £300 is fair and reasonable compensation in the circumstances.

Having considered the parties replies to my provisional decision, they haven't changed my view – on the complaint itself or the fair redress. As such my provisional findings are now those of this, my final decision.

Putting things right

I require Adrian Flux to:

- Pay Mr M £300 compensation.
- Write a letter for Mr M to share with other brokers/insurers if he wishes to, which explains that it made an error which caused him to have a policy with a term added to it.

My final decision

I uphold this complaint. I require Adrian Flux Insurance Services Group to provide the redress set out above at "Putting things right".

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 3 September 2024.

Fiona Robinson
Ombudsman