

The complaint

Mr N complains that Brooksure Ltd mis-sold him a buildings insurance policy.

What happened

The circumstances of this complaint aren't in dispute, so I'll summarise the main points:

- Mr N took out buildings insurance through Brooksure, an independent intermediary, in 2018. It was underwritten by an insurer I'll call C. The buildings sum insured was set to £120,000.
- Mr N got in touch with C to make a claim after he noticed cracking in the building. C accepted the claim, but it said Mr N was underinsured because £120,000 wasn't enough to cover the rebuild cost – so the claim wouldn't be settled in full.
- Mr N complained about the way Brooksure sold the policy. In summary, he thought it was responsible for him being underinsured and suffering a shortfall in the claim settlement.
- Brooksure has engaged with this Service and accepted it sold the policy. It's not provided evidence to show it responded to Mr N about his complaint. But it's told this Service it wouldn't give advice about a rebuild cost and it's up to a policyholder to provide an accurate rebuild cost as a sum insured.
- Our investigator sought further information from Brooksure, many times over several months, but it didn't provide anything further. As a result, she considered the complaint on the strength of the available information. She said Brooksure hadn't shown what information it asked Mr N for, or what advice it had given him, so she wasn't satisfied it had sold the policy fairly. She asked Brooksure to pay Mr N the shortfall in his claim settlement and £250 for the distress and inconvenience caused.
- Brooksure didn't respond, despite being given several more opportunities to do so. So the complaint has been passed to me.

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.

- As a business regulated by the Financial Conduct Authority (FCA), Brooksure is required to act in line with the Dispute Resolution Rules (DISP). That includes DISP 3.5.8 – 3.5.11 which, in summary, say this Service:
 - Can give directions as to what evidence is required;
 - How that evidence should be presented;
 - Reach a decision on the basis of what has been supplied and take account of the failure by a party to provide information requested;

- Has the power to require a party to provide evidence.
- It's very disappointing that Brooksure hasn't engaged meaningfully with this Service about Mr N's complaint. It's not provided the information our investigator asked for – or explained why it may be unable to. That means, like our investigator, my consideration of the complaint is limited by the information available to me. And, in keeping with DISP, I'll take into account the failure of Brooksure to provide the requested information.
- Brooksure is an independent intermediary. As a result, it's not responsible for the way the claim was handled or any other actions taken by, or on behalf of, C.
- At the 2018 policy sale, Brooksure was responsible for gathering from Mr N the information C required in order to setup the policy. It was also responsible for providing Mr N with information that was clear, fair and not misleading so that he could make an informed decision about whether the policy was right for him, including whether he needed to make any changes to the cover provided.
- In my view, the sum insured for the policy is significant. It not only limits the maximum amount an insurer will pay for a claim, but can also lead to reduced claim settlements for lower valued claims in the event of underinsurance – as Mr N has experienced. So I would expect it to be prominently highlighted during a policy sale. I'd also expect it to be reasonably clear what the sum insured should be based on and how Mr N could take steps to provide an appropriate figure for it.
- In this case, it was clear the sum insured had been set to £120,000. It was also clear the sum insured should be based on the rebuild cost of the building. That's an inherently difficult cost to estimate, particularly for someone without specialist building knowledge, such as Mr N. So it was an important part of the sales journey for Brooksure to provide reasonable guidance about how Mr N could go about providing such an estimate – such as reference to a reputable rebuild calculator.
- I agree with Brooksure that its responsibility only extended so far, and its role wasn't to effectively act as a surveyor, builder or similar. I wouldn't expect Brooksure to go so far as to carry out the estimate itself. So I can understand why it didn't do this – and I think it was reasonable not to provide an estimate of its own. But I would expect it to provide clear, fair and not misleading information about how Mr N might take steps to reach a reasonable estimate.
- Brooksure hasn't shown it did this. It hasn't provided any call recordings, call notes, online sales journey, emails, other messages, or documents involving Brooksure. The only documents it's provided don't set out how Mr N could reach a reasonable estimate for the rebuild cost.
- I simply have no evidence to show Brooksure fulfilled all the requirements and met its responsibilities to Mr N. It's *possible* it did so and just hasn't shared the evidence of such. But I must consider a complaint based on the evidence available to me. I also take into account the failure of a party to provide relevant evidence. And, in the circumstances of this case, for the reasons given, I'm not satisfied Brooksure has shown it sold the policy fairly.
- C intends to reduce Mr N's claim settlement by 18% due to underinsurance. That means a claim shortfall of around £5,000 as it stands – and potentially more, as I understand the claim settlement value hasn't been finalised at this time.

- If Brooksure had provided Mr N with guidance about how he could reach a reasonable estimate of the rebuild cost, I think it's likely Mr N would have followed that guidance. And it's likely that reference to an online rebuild calculator or similar would have provided Mr N with a reasonable estimate – and he wouldn't be left facing a claim shortfall due to underinsurance.
- Brooksure hasn't shown it met its responsibilities when selling the policy. And that's led to Mr N being underinsured – and suffering a claim shortfall of 18%. I don't think it would be fair for him to lose out in these circumstances.
- To put that right, Brooksure should pay compensation for financial loss to the value of the claim shortfall brought about by underinsurance. That won't include the excess, as Mr N would have had to pay that regardless of underinsurance. As the claim value is yet to be finalised, I won't award a specific figure. It wouldn't be fair to any party for Mr N to be under or over indemnified, so I'll simply award the shortfall in principle.
- Once the claim value is finalised, Mr N can share the details with Brooksure and I would expect it to pay him the claim shortfall due to underinsurance – excluding the excess – within a reasonable period of time.
- Aside from the financial loss caused by the claim shortfall, it's clear Mr N has also suffered non-financial loss due to the way the policy was sold and Brooksure has handled matters. The underinsurance issue has made the claim with C more complex than it ought to have been and has given Mr N understandable cause for concern that he might have to pay a significant sum to cover the shortfall so repairs can be carried out.
- This additional distress and inconvenience, above that necessarily caused during a claim, is the result of the way the policy was sold. So I think it's right for Brooksure to pay compensation and £250 is fair and reasonable in the circumstances.

My final decision

I uphold this complaint and require Brooksure Ltd to:

- Pay compensation for financial loss to the value of the claim shortfall brought about due to underinsurance.
- Pay £250 compensation for distress and inconvenience*.
- *Brooksure must pay this compensation within 28 days of the date on which we tell it Mr N accepts my final decision. If it pays any later than this it must also pay interest on the compensation, at 8% simple per year, from the deadline date for settlement to the date of payment.
- If Brooksure considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr N how much it's taken off. It should also give Mr N a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 22 May 2025.

James Neville
Ombudsman