

The complaint

O, a business, complains that The National Farmers' Union Mutual Insurance Society Limited ("NFU") caused delays and financial distress when it incorrectly declined a claim under their Farm Select Insurance policy.

Where I refer to NFU, this includes the actions of its agents and claims handlers for which it takes responsibility.

Whilst O is represented in their complaint, for ease of reading, I'll refer to all submissions having been made by O directly.

What happened

The detailed background to this complaint is well known to both parties, so I'll only summarise the key events here.

O took out a Farm Select Insurance policy, underwritten by NFU, which started on 1 February 2023.

On 15 February 2023, O suffered a loss of water to their business premises for a period of four days. This had devastating consequences as livestock had to be put down, which has resulted in a loss of production and income. O made a claim to NFU.

NFU considered the claim under the business interruption section of the policy for public utilities. But it didn't think an insured event had occurred as the policy said it would cover "*loss of income arising from damage to property by an insured peril*" and there'd been no damage to the property.

NFU thought the claim might fall under the terminal ends section of the policy. But it noted O hadn't taken out this cover. It undertook an internal investigation as to why this section hadn't been included and found it was omitted in error. So NFU agreed to consider the claim under this section.

Enquiries were made with the water company to find out why there was a loss of water to O's premises. NFU discovered that possible faulty workmanship had led to contamination of the water, resulting in a shutdown of the site and water stopped from going into supply.

Based on this, NFU said the claim was excluded under the terminal ends section of the policy as there was no cover for "*loss of income which results from...the deliberate act of the supply undertaking or by the exercise by any undertaking of its power to withhold or restrict supply or service*". It said as the water company had deliberately cut off the water supply; the exclusion applied and the claim was declined.

In June 2023, O raised a complaint about this decision as well as NFU's omission to include terminal ends cover and legal expenses insurance to the policy at the point of sale. NFU reconsidered its position and acknowledged that the exclusion had been applied unfairly in the circumstances as the water company hadn't intentionally or deliberately cut the water

supply. Rather, the system automatically shut off when it detected a change in the quality of water which was something the terminal ends section of cover provided for. It agreed to cover the claim.

NFU required information to validate O's losses, which was provided throughout October 2023 to January 2024. During this time, NFU made interim payments towards the claim settlement. And it paid £1,000 compensation in recognition of the shortfalls in the service it provided, and the errors made on O's policy.

O didn't think the compensation fairly reflected the impact NFU's actions had on their business. They say they've struggled to pay bills which has affected their credit rating and their ability to borrow money. They've had companies constantly chasing outstanding debts and they've been taken to court. This has had an impact on their mental wellbeing as a family run business and has caused significant financial hardship and worry. And they're at risk of losing their business.

Our Investigator upheld the complaint and recommended that NFU increase its compensation payment by an additional £1,000. She said:

- The errors in declining the claim unfairly have resulted in delays of approximately six months. Once the claim was accepted, interim payments have been made.
- The various documents provided by O show that several suppliers were sending demands for outstanding debts prior to February 2023.
- NFU are only on risk for 65% of this claim on the basis that a previous loss of water, which occurred prior to the start of NFU's policy in December 2022, is deemed to make up 35% of O's losses. As such, O was always going to be out of pocket and financially impacted.
- NFU have agreed to include O's uninsured losses in its own legal action against the water company which is fair in the circumstances.
- The interim payments O received up to the date of the final response to this complaint are generally in line with what we'd expect. Both parties are clear on what outstanding information O need to provide and what final payment NFU needs to make to settle the claim in full.

NFU accepted our Investigator's recommendations, but O didn't. They've asked that an Ombudsman look at their complaint afresh, so it was passed to me to decide. And I issued the following provisional decision.

My provisional decision

The crux of this complaint is two-fold. Firstly, O says NFU mis-sold the policy by omitting terminal ends cover and legal expenses insurance when it was a requirement for their business. And secondly, the claim was declined incorrectly under the terminal ends cover which caused financial hardship. I'll address each of these points in turn.

Mis-sale

When declining O's claim under the business interruption section of the policy, NFU identified that this claim would fall under terminal ends. It queried why this section of cover hadn't been added to the policy at the point of sale and found that it was in error. Based on

this admission, I don't need to make a finding on whether NFU did something wrong here – it did. What I need to decide is whether it did enough to put things right.

Where a business has made an error, we'd expect it to put its customer back in the position they would've been in had an error not occurred. In this case, NFU added terminal ends cover to O's policy retrospectively and considered the claim under that section on the basis that O had always had it in place.

As such, I'm satisfied NFU put O back in the position they would've been in had terminal ends cover not been omitted from their policy.

In respect to legal expenses insurance, I can't fairly say this was omitted from the policy by NFU. I say this because I've been provided with the demands and needs statement put together during the advised sale which was sent to O on 27 January 2023. In this statement, commercial legal expenses is listed as a section of cover which NFU had recommended but O had not proceeded with. The reasons given on the statement are that O *"decided not to include this because [they] are happy to self-insure this risk"*.

For this reason, I don't consider the policy to have been mis-sold on the basis that policy cover had been omitted.

Claim decline

NFU initially declined the claim under the terminal ends section due to an exclusion relating to deliberate acts. It later acknowledged that this exclusion was unfairly applied and, for clarity, I agree that it was.

To put O back in the position they would've been in had NFU not declined the claim incorrectly, NFU accepted the claim and made interim payments towards the settlement. But there was a period of approximately six months when O was left without cover at all.

I've no doubt that O would've experienced distress and inconvenience as a result of NFU's error and the delay in rectifying it, for which they should be compensated. NFU has already paid £1,000 to put things right but I'm aware O doesn't consider this to be enough.

Compensation isn't intended to fine or punish a business, it's to recognise the impact the business' actions have had on its customer. So I've thought about how O has been impacted.

The circumstances of this claim have had a devastating effect on O's business. The interruption they've faced as a result of the loss of water and subsequent loss of livestock has left them in financial hardship. O has been unable to settle bills with various suppliers and has been taken to court and issued a CCJ. Understandably, this has caused a great deal of distress and emotional upset for all involved in this family run business.

But I'm mindful that much of O's distress and inconvenience is a result of the loss of water itself. NFU isn't responsible for that; this is between O and the water company. I'm only looking at the impact of NFU's actions here.

I can't say with any certainty that, had NFU paid the claim sooner, O wouldn't have suffered the consequences they've described. I say this because NFU would only ever have settled 65% of the claim and it's clear that O experienced a degree of financial difficulty as a result of the first loss of water which occurred prior to the start of this policy.

So I can't attribute all of the impact to NFU. But I'm satisfied NFU's actions have made an already difficult situation significantly worse. And for this, O should be compensated. I agree with our Investigator that an additional £1,000 is a fair reflection of the distress and inconvenience O experienced as a result of the six months they were left without cover and interim payments.

Responses to my provisional decision

O has provided a significant amount of further detail regarding the impact they've suffered as a result of NFU's actions. I don't intend to repeat everything they've said in full. Instead, I've summarised the key points below.

- NFU led O to believe the claim was covered and that an interim payment was forthcoming. Based on this, O made decisions to order feed for the livestock. When the claim was declined incorrectly, O had no means to pay these bills.
- O has never been in debt before, but due to the six months without cover for their claim, they've been unable to pay bills and have been taken to court. Due to the CCJ, they now have poor credit and can't borrow any funds to help with their debt.
- The amount of distress they've experienced has been underestimated. They thought they'd lose their business which they'd built up from a single dairy cow. This caused depression and suicidal thoughts.
- O may have to sell some livestock to help clear the debts which have built up.
- If they hadn't complained and continued to constantly chase NFU, it never would've acknowledged their claim had been incorrectly declined. They've had to fight the whole way and continue to do so.

NFU didn't respond.

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'd like to reassure O that whilst I may have condensed what they've told us in far less detail and in my own words, I've read and considered all their submissions. I'm satisfied I've captured the essence of the complaint and I don't need to comment on every point individually, or possibly in the level of detail they'd like, in order to reach my decision. This isn't meant as a discourtesy, but simply reflects the informal nature of our service.

To be clear, I'm only considering events which have occurred up until NFU issued its final response letter on 25 January 2024. If O are unhappy about anything which has happened since, they'll need to raise a new complaint. Once they have NFU's response to the new complaint, or if eight weeks passes without one, they'll have the right to bring the complaint to our service.

I've thought about the points O have made regarding the debts they've incurred. As I've explained in my provisional decision, NFU were only ever liable for 65% of this claim due to some of the losses arising from an incident which occurred before the policy was in place.

As such, I'm persuaded O would've always had bills they wouldn't have been able to pay because, even if NFU had accepted the claim from the outset, O would be out of pocket of 35%. And they would've still had to buy food for the livestock and pay the other expenses involved in running their business. I've not seen enough to show me that there's a causal link and that O wouldn't be in debt now had they received interim payments sooner.

I don't underestimate the distress and inconvenience O has suffered. They've experienced two incidents in a short space of time which has caused severe difficulties to the running of their business, and this has been made significantly worse by NFU's failure to take responsibility for this claim for a period of six months. I can see that O have had to chase and complain to get what they should've received from the outset. It's for this reason that we awarded an additional £1,000 compensation. And I remain persuaded that this is the fair resolution to the complaint.

My final decision

For the reasons I've explained, I uphold this complaint and direct The National Farmers' Union Mutual Insurance Society Limited to pay:

- An additional £1,000 compensation, bringing the total to £2,000.

Under the rules of the Financial Ombudsman Service, I'm required to ask O to accept or reject my decision before 4 December 2024.

Sheryl Sibley
Ombudsman