

The complaint

Mr and Mrs H complain about the way the National Farmers' Union Mutual Insurance Society Limited ("NFUM") settled a claim on their legal expenses insurance policy.

Where I refer to NFUM, this includes its agents and claims handlers acting on its behalf.

What happened

Mr and Mrs H have legal expenses cover included with their home insurance. They are joint policyholders but Mr H mostly dealt with the claim and complaint so for ease, I'll refer to him.

In 2021 Mr H made a claim for cover in relation to a dispute with the freeholder of the building where they are leaseholder owners concerning repairs and charges. NFUM accepted the claim, cover was provided and solicitors were appointed to act, on the basis the case had reasonable prospects of success and the value of the claim in relation to the likely costs meant it would be proportionate to pursue.

In April 2023 the solicitors advised that the value of the claim was only a few thousand pounds and the costs considerably higher, so it was no longer proportionate to pursue. NFUM asked the solicitors to give some more detailed advice on the claim and costs, and whether a payment of the claim value would resolve issues.

The solicitors said the total value was around £2,400 but Mr H was likely to recover less than that, while the costs to date were £10,000 and the final costs would be higher. NFUM didn't make a decision on the claim at that point, while it waited for further information from the solicitors.

In January 2024 Mr H complained that it was now three years since the claim was made and there had been no real progress. In February, the solicitors advised they could no longer assist. Following further correspondence, in May NFUM offered to settle the claim by paying the claim value of £2,400.

Mr H said the freeholder was refusing to allow him to see the accounts, which he was entitled to. He wanted to bring an action to force disclosure. The solicitors advised that this was a criminal matter and wouldn't be covered by the policy.

In its final response to the complaint NFUM said the policy didn't include cover for seeking access to the management company's accounts, and the solicitors had explained to Mr H the process he could follow if he wished to pursue that.

When Mr H referred the complaint to this Service, our investigator said:

- Pursuing access to the accounts documents wasn't something that fell within any of the heads of cover set out in the policy.
- This claim was assessed as no longer proportionate to pursue and the claim value was paid. If Mr H wanted to challenge this, he would need to get his own legal advice. And if he's unhappy with the solicitors, that's a separate matter.

Mr H disagreed and provided further comments but the investigator didn't change his view. So he requested an ombudsman's 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.

The relevant industry rules and guidance say insurers must deal with claims promptly and fairly and not unreasonably reject a claim.

The policy provides cover for claims that have reasonable prospects of success and fall within one of the heads of cover listed. For landlord and tenant disputes, there's cover for pursuing a dispute arising from an agreement in relation to their home. So Mr H was covered for a dispute with the freeholder about issues relating to his lease, such as repairs or service charges.

The only other property disputes covered by the policy concern physical damage, nuisance and trespass, none of which would be relevant here.

Mr H's claim was initially covered as the solicitors said it had a reasonable chance of success and the costs were proportionate to the value in dispute. They later advised the costs were likely to be much higher than the value of the claim. Even if the policy doesn't explicitly say costs must be proportionate, it covers reasonable costs – and it wouldn't be reasonable to expect NFUM to spend far more in costs than the amount in dispute.

It was the solicitors who advised on the legal case and the amount of costs involved. They are best placed to advise on that and it was reasonable for NFUM to rely on their advice.

The policy allows NFUM to pay the value of the claim in these circumstances, and that's what it did. That was a fair way to settle the claim.

Mr H then said the freeholder wouldn't allow him access to the accounts and he wished to bring a separate claim in relation to that. As a leaseholder, Mr H has certain rights to see the accounts and refusing access may potentially be an offence. Enforcement action may be taken by the local housing authority. This isn't something that's covered by the policy.

Mr H is unhappy that the solicitors initially estimated the costs would be in the region of £3,000 - £5,000 and the claim was proportionate but the claim was allowed to drag on for three years, leading to inflated costs. NFUM isn't responsible for the legal advice given, or for any failings with the way the legal dispute was handled; those were matters for the solicitors and they have their own professional conduct rules. I understand he's complained to the solicitors and he may pursue that complaint to the Legal Ombudsman if he wishes. These are not things I can comment on; I can only consider how NFUM dealt with the insurance claim.

I appreciate the legal dispute has been ongoing for several years, and this had been very frustrating for Mr H, but NFUM isn't responsible for the conduct of his legal case or the legal advice given in relation to that. It did contact the solicitors for updates and it was for the solicitors to manage the legal case. NFUM's responsibility is to ensure cover is provided fairly, in line with the policy terms, and I'm satisfied it has done that.

My final decision

My decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H and Mrs H to accept or reject my decision before 15 January 2025.

Peter Whiteley
Ombudsman