

The complaint

Mr H complains Access Financial Services Limited (“AFS”), his home insurance broker, misrepresented information to an insurer which led to him suffering a significant financial loss when the policy was voided by the insurer following a claim for an escape of water.

What happened

In 2022 Mr H took out a home insurance policy through AFS, an insurance broker. In 2023 there was an escape of water, so Mr H made a claim. The insurer (whom I’ll call “R”) voided the policy and declined the claim. Our Service considered a separate complaint about R’s actions and determined it had acted fairly and reasonably. This was because, in brief, the Investigator was satisfied there had been a careless qualifying misrepresentation on the part of Mr H and R had shown it wouldn’t have offered a policy on any terms had it known Mr H’s property had six bedrooms rather than four.

Mr H says the misrepresentation was AFS’ fault. He says he made clear the property to be insured had six bedrooms, but two would be used as offices. He says AFS advised him to declare four bedrooms, which is what he did and is why he didn’t question the number of bedrooms being four when he received the policy documents. The Investigator ultimately recommended the complaint should be upheld on the basis AFS had failed Mr H. AFS didn’t dispute that, but it did challenge the Investigator’s recommended redress. As an agreement couldn’t be reached the complaint was passed to me to decide.

I issued a provisional decision. I said:

“I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

Mr H was in the process of purchasing a six-bedroom property when he contacted AFS about home insurance. Whatsapp messages show he contacted an AFS agent (who I’ll call “A”), on 7 April 2022. It’s clear Mr H and A had an existing relationship. While AFS has suggested business was conducted either face to face or by email, and no calls took place, Mr H’s testimony and the Whatsapp messages don’t support that. I’m satisfied it’s more likely than not calls did take place.

Mr H says during the calls he made clear it was a six-bedroom property but two would be used as offices. This is supported by the Whatsapp messages. On 11 April 2022 A sent Mr H a form via Whatsapp to complete. Mr H returned this via Whatsapp on 12 April 2022. For bedrooms he put “4 + 2 office” accompanied by a message which said “I’ve put 2 office rooms and 4 bedrooms. Call me on this.”

The policy documents A later sent Mr H by email had the number of bedrooms as four. Mr H queried some other details, such as the construction being of stone, but didn’t query the number of bedrooms. AFS has said Mr H should have corrected the number of bedrooms. Mr H says he didn’t query the number of bedrooms because of the guidance he’d been given by A. I’m persuaded by Mr H’s argument here as it fits with the evidence available, his testimony has been consistent and credible throughout, and I haven’t been presented with A’s version of events.

Regardless, AFS was the professional. It ought reasonably to have known the number of bedrooms would be important to the insurer and while a bedroom can be used as an office, it remains a bedroom for insurance risk purposes. And as set out above, I'm satisfied Mr H made clear what the position was regarding the bedrooms/offices. By arranging a policy based on the property having four bedrooms I find AFS misrepresented Mr H's position to the insurer and would reasonably have known the serious consequences this could have.

AFS has said it would have been able to source a policy for Mr H based on a six-bedroom property proposal. And Mr H has made clear he would have taken out an insurance policy because he needed one for mortgage purposes. So I'm satisfied but for AFS' failing, Mr H would have had appropriate home insurance cover. R has said, from its initial claim investigations, there were no issues with the claim itself, so were it not for AFS' failing, Mr H would more likely than not had a valid claim.

To summarise, I find, on the evidence available to me, and on the balance of probabilities, it's more likely than not AFS misrepresented the number of bedrooms. And had AFS correctly represented the number of bedrooms Mr H would have been able to obtain appropriate cover and would have done so, meaning he would have had a valid claim. Instead, he's had a significant claim declined (and a policy voided), and this has caused Mr H a substantial financial loss and a great deal of distress and inconvenience.

Putting things right

As the insurer declined Mr H's claim there was no loss adjuster report as would ordinarily be the case, nor the usual insurer-led claim considerations or record keeping. Mr H has, in effect, been left to manage the consequences of a significant escape of water claim on his own, which has included expensive repairs, the replacement of contents and sourcing alternative accommodation. The Investigator gathered what evidence she could to decide what Mr H's loss was and put this figure - about £116,000 - to both parties.

Mr H seems to have been broadly in agreement with the Investigator's recommendation. AFS didn't challenge the Investigator's recommendation that the complaint should be upheld. But it did raise some concerns over the recommended redress, which the Investigator addressed. I will summarise the concerns and responses as follows:

- AFS questioned the fairness of R declining the claim and voiding the policy. The Investigator explained our Service had considered this and a complaint against R hadn't been upheld.
- AFS questioned the nature of the claim and whether a policy exclusion would have applied, such as wear and tear. The Investigator reiterated R had said the claim would have been accepted, but for the careless qualifying misrepresentation.
- AFS said it hadn't seen relevant evidence of Mr H's losses. The Investigator explained the difficulty here given no claim was considered and shared the information she'd gathered.

AFS indicated it would provide a further response, but nothing of substance has been forthcoming.

I'm not satisfied there is enough information to reach a fair determination on what repairs are necessary and what they will ultimately cost Mr H. While Mr H has

provided a quote, it's based on a visit from September 2024 (and so is out of date), and its contents haven't been assessed by a suitably qualified professional in line with R's policy terms. I say R's policy terms because there must be a basis for a claim-related loss assessment, and I find using R's policy terms (including the limits and excesses) as that basis to be appropriate given Mr H accepted them previously.

So rather than require AFS to pay Mr H a cash settlement – which might be too much or too little – I intend to require AFS to appoint a loss adjuster to independently review Mr H's claim against R's policy terms (and any directions I make within my decision). AFS should provide details of three independent loss adjusters for Mr H to choose from. The cost of appointing the loss adjuster will be covered by AFS. AFS must then pay Mr H the loss adjuster's settlement figure to the value of the claim. Claim considerations should include contents, buildings, alternative accommodation and any other reasonable claim related costs. The loss adjuster should include simple interest at 8% a year on claim related payments Mr H has already paid from the date he paid them to the date the settlement figure is paid to him.

Mr H has been caused a great deal of distress and inconvenience by this matter. As set out above, the claim was substantial, and he's had to deal with it himself because of AFS' failing. The impact of having the claim declined, having to replace some of his possessions, to affect some repairs himself, and arrange alternative accommodation for his family, has been significant. I'm also aware Mr H says his marriage broke down because of this claim. While I expect this claim didn't help matters, and I sympathise with the difficult personal situation Mr H finds himself in, I'm not satisfied I can fairly say AFS is responsible for that – it follows I'm not making an award for that or requiring AFS to reimburse Mr H for his marital legal costs. The Investigator recommended £2,500 compensation. I'm satisfied that's fair and reasonable in the circumstances.

This matter led to R voiding the policy and this is likely recorded on R's internal records, as well as externally. AFS has asked R to amend these records. I find it should do so again, but this time by explaining how the careless qualifying misrepresentation occurred because of its failing. Mr H can also approach R should he choose to do so. But ultimately the decision on whether to amend records will be for R to make.

My provisional decision

I intend to uphold this complaint and require Access Financial Services Limited to:

1. Provide details of three independent loss adjusters for Mr H to choose from;
2. The cost of appointing the loss adjuster Mr H chooses will be covered by AFS;
3. AFS must then pay Mr H the loss adjuster's claim value settlement figure;
4. Claim considerations should include contents, buildings, alternative accommodation and any other reasonable claim related costs;
5. The loss adjuster should include simple interest* at 8% a year on claim related payments Mr H has already paid from the date he paid them to the date the settlement figure is paid to him;
6. Pay Mr H £2,500 compensation; and
7. Explain to R the misrepresentation was because of a failing by AFS and ask it to remove any adverse data regarding this matter from internal and external records."

AFS didn't respond to my provisional decision by the deadline I set. Mr H responded to say he was disappointed I wasn't requiring AFS to reimburse him for his marital legal costs, but

doesn't ask me to consider the point further. He also said while he understands the reasons for my intention to require AFS to appoint an independent loss adjuster, he's concerned this could complicate matters and lead to disputes/delays. His preference is for AFS to settle this matter based on his quote. Mr H also queried whether his premium should be refunded. The Investigator explained as AFS is paying for his claim-related losses, it's entitled to the premium.

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.

Having done so, I'm not departing from my provisional decision. I understand Mr H's concerns about what will happen next. But I remain of the view it's appropriate in the circumstances for a loss adjuster to independently review Mr H's claim in the way I set out in my provisional decision, for the reasons I set out in my provisional decision. For completeness, AFS need not refund Mr H's premium, for the reasons the Investigator explained.

My final decision

I uphold this complaint and require Access Financial Services Limited to:

1. Provide details of three independent loss adjusters for Mr H to choose from;
2. The cost of appointing the loss adjuster Mr H chooses will be covered by AFS;
3. AFS must then pay Mr H the loss adjuster's claim value settlement figure;
4. Claim considerations should include contents, buildings, alternative accommodation and any other reasonable claim related costs;
5. The loss adjuster should include simple interest* at 8% a year on claim related payments Mr H has already paid from the date he paid them to the date the settlement figure is paid to him;
6. Pay Mr H £2,500 compensation; and
7. Explain to R the misrepresentation was because of a failing by AFS and ask it to remove any adverse data regarding this matter from internal and external records.

*If Access Financial Services Limited considers that it's required by HMRC to deduct income tax from that interest, it should tell Mr H how much it's taken off. It should also give Mr H a tax deduction certificate if he asks for one, so he can reclaim the tax from HMRC if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 17 July 2025.

James Langford
Ombudsman