DRN-5692920

The complaint

Mr B complains about the way The National Farmer’s Union Mutual Insurance Society Limited (“NFU”) has handled a claim he made for subsidence damage to his property. Whilst this complaint has been brought by both Mr and Mrs B, as Mr B has been the main correspondent on the claim and complaint, I’ve only referred to him in this decision.

What happened

In 2019 Mr B made a claim under his NFU home insurance policy; he’d noticed damage in his home that he thought might have been caused by subsidence. He provided NFU with ground investigation works he’d had carried out in 2006, not long after the property had been extended. The property had been monitored – with both crack and level monitoring – at that stage but Mr B’s expert had concluded the movement hadn’t been subsidence, but initial foundation settlement.

NFU carried out some investigations in summer 2019 and in 2022 it carried out repairs internally and externally.

In Summer 2022 M B says further cracks opened up in the property. NFU assessed those at the end of 2022, some further investigations were carried out into 2023. It was agreed a deep-seated datum would be installed, which was done in May 2023, with a further period of monitoring to take place.

In 2022 and into 2023 Mr B complained about NFU’s handling of the claim. He said that NFU’s contractor had recommended, in 2019, that a deep-seated datum should be installed, so NFU had caused around a four-year delay in the claim. He also said CCTV of the drainage, recommended in 2019, was also only carried out in early 2023. He felt the only way to stabilisation would be achieved would be for NFU to underpin the property. He said this had been concluded in 2019.

On 21 December 2023 NFU issued its complaint final response letter (FRL). It accepted some issues with the Service offered in relation to some of the reports carried out. It offered £400 compensation to recognise the unnecessary distress and inconvenience caused by those mistakes. But it didn’t accept that cracks – which had appeared after the repairs had been carried out in 2022 – showed there was ongoing subsidence. It said it had agreed to the deep-seated datum to reassure Mr B of the stability of the foundations.

Mr B referred his complaint to the Financial Ombudsman Service. He said he wanted NFU to accept that stabilisation of the property needed to happen through underpinning of the foundations. He also said he wanted compensation for the inordinate amount of time the claim had taken.

Our Investigator noted this was an ongoing claim but set out her review would only consider matters up until NFU’s FRL of December 2023. She ultimately accepted there had been delays caused by NFU’s handling of the claim, she estimated NFU had unfairly delayed the claim by around a year. She accepted this had caused substantial distress and inconvenience to Mr B. She recommended, having regard to our guidelines, that NFU should pay a total of £1,400 compensation, including the £400 already offered, to recognise the impact of that delay. But she didn't think NFU should agree to underpin the property. She said as monitoring was ongoing (as of the date of NFU's FRL) it wouldn't be appropriate at that point to direct NFU to underpin the property.

Mr B didn't accept that outcome. He said NFU had caused an unreasonable delay of four years, because deep-seated datum was recommended to be installed in 2019, and yet this was only done in May 2023.
He said the only way to arrest the downward movement, as well as the differential movement, would be to underpin the foundations, and so that is what NFU should do. He said had the deep-seated datum been installed in 2019, the underpinning would have likely been completed by summer 2021. He said, as a result of this delay, he'd incurred financial losses. An extension he'd planned to build in 2021 was now going to be much more expensive to do, he'd also had pay for extra storage solutions over the years due to not being able to extend his property.

He also said furniture, which had been moved into storage by NFU, had been returned damaged, he said this hadn't been resolved.

As the matter wasn't resolved, it was referred to me for an Ombudsman's decision. In June 2025 I issued a provisional decision on the complaint. I said whilst matters had moved on and further monitoring was being done (or had already completed), I was only looking at matters up to December 2023. And based on what I'd seen, I didn't think NFU had acted unreasonably in its handling of matters. However, I said I didn't think it was fair, if NFU had instructed the removals company, for it not to consider Mr B's complaint about his furniture being damaged. A copy of my provisional findings is set out below.

Mr B has raised a number of issues with the claim handling of NFU, I'm not going to list them here as both parties are aware of them. Essentially though, I see there being three main things for me to consider; should NFU agree to underpin the property? Did NFU's decision not to install deep-seated datum in 2019 cause Mr B a loss? And was NFU's offer of compensation fair and reasonable?

At the point NFU provided its final response letter, the second round of monitoring hadn't yet completed. So it's possible the claim has now moved on. But my role is to consider if NFU's response to Mr B's complaint was fair and reasonable at the point at which it gave it. So, I am therefore considering whether as of 21 December 2023, NFU was fair and reasonable in the way it responded to Mr B.

<u>Should NFU agree to underpin Mr B's property?</u>

The initial report carried out in 2019 by NFU discussed the ground conditions upon which Mr B's property has been built. It says, "there is no mitigation possible associated with consolidation of weak Fenland subsoil beyond stabilisation of the effected foundation." Mr B says this means underpinning of the foundations needs to happen.

However, that initial report said, notwithstanding the above, that monitoring would be undertaken first to "establish the nature and magnitude of any movement". Whilst the report was commenting on there being no mitigation of the soil, NFU hadn't, as yet, ascertained there was progressive movement. And for NFU to be liable under the policy for resolving subsidence, there would need to be current movement. So it's reasonable NFU wanted to carry out monitoring. I don't think it was agreeing, in 2019 that underpinning would be the necessary outcome of the claim.

Having completed the monitoring in summer 2021, NFU's view was that underpinning, given *the movement was so minimal, wasn't necessary. I don't think that was an unreasonable position for it to take at that time. NFU's expert recommended helibars be used to reinforce the extension. I haven't seen any other expert report that concludes underpinning was the appropriate cause of action in 2021, or that carrying out the intended repairs was inappropriate considering the level of movement.*

Underpinning works are expensive, as well as messy and disruptive for the policyholder. So it's not unreasonable for a business to not undertake these if it considers the property to be stable. NFU's obligations under the policy are to return the property to its pre-loss state. If that can be done without carrying out underpinning works of the foundations, then it will have met its obligations under the policy.

Mr B did report more cracks opening, as the repair works neared completion. He says this shows underpinning is needed. NFU's building consultant (N) wrote a report dated May 2023, having carried out a further site visit. His conclusion was that the monitoring from 2019-2021 "has never recorded any evidence of either cyclic or progressive differential foundation movement". It goes on to say the external cracks reported by Mr B may well be as a result of "both moisture absorption and thermal movement", rather than subsidence. His conclusion was that the foundations were stable.

I know Mr B disputes the findings in this report, I've seen the extensive notes he made to this document. He says many of the statements made by N were misleading, and amount to nothing but theory. However I'm satisfied N is a suitably qualified expert in this area, and his comments are his professional opinion. It is reasonable for his professional opinion to be taken into account. Mr B may not agree with that, but I can't see that the report has been written to mislead Mr B or any other party. As such, I think NFU has been reasonable in relying on this report to decline underpinning the property at this stage. N's report concluded that further monitoring, with the deep-seated datum, would provide reassurance of the foundation stability.

I understand Mr B has knowledge and experience relevant to building structures, but I can't see, as of December 2023 (when NFU had issued its complaint FRL) that he'd provided his own expert report which contradicted NFU's findings. Mr B has referenced that his own expert ("P") had attended a site meeting with him. He says P told him the only way NFU could say the property had stabilised was through underpinning. But I haven't seen that, prior to NFU issuing its FRL, Mr B had provided it with any substantive report from P, evidencing that the property should be underpinned. As such I'm not persuaded NFU acted unreasonably in not agreeing to underpin the property at that stage.

I appreciate that further monitoring (which may be complete by the time this decision is provided to the parties), might show that underpinning is needed. But based on what I've seen, I intend to decide NFU made a reasonable decision, in December 2023, not to agree to underpin the property.

Having set out the above, I'm now going to consider whether NFU's handling of the claim, relating to the monitoring, has caused Mr B the financial losses he's previously set out to this Service.

<u>Did NFU's decision not to install deep-seated datum in 2019 cause Mr B a loss?</u>

Mr B's position is that it has. He says had it been installed in 2019, as recommended, then the property could have been underpinned by summer 2021. If that had happened, his planned extension would have been significantly cheaper to build (compared to building costs now) and he wouldn't have had to pay for alternative storage solutions at his home. So *he feels NFU should compensate him for that loss.*

I accept that NFU said in 2019 that it would install a deep-seated datum. However, in August 2019 NFU said "regrettably ground conditions did not permit such an installation." Instead it said it would use a suitable alternative datum as "it is the differential in movement between the various parts of the building that we wish to ascertain".

Mr B says the reason the datum wasn't installed was because NFU's contractors turned up with the wrong equipment, having been ill-advised on the ground conditions. NFU doesn't seem to accept that. Its view is that, in any event, the deep-seated datum isn't generally needed to ascertain subsidence. It said Mr B's own engineer, who'd carried out investigations in 2006, also hadn't thought a deep-seated datum point was needed to show differential movement.

So there's clearly disagreement by the parties as to why it wasn't installed in 2019. I'm not going to make a finding on whether NFU did fail to install it in 2019 due to its error or not. I say this because even if I find that it did, in order to make an award off the back of that failure, I'd have to be persuaded that it's most likely that installing the deep-seated datum would have resulted in a different outcome for Mr B (i.e. NFU agreeing to underpin the property in 2021). Having considered matters, I don't think that is most likely the case.

The monitoring that was carried out showed very minimal movement across the property. I haven't seen any evidence, such as an expert opinion, which persuades me that installing a deep-seated datum would have showed more significant movement, perhaps because of it likely capturing different data for example, which would have meant NFU would have agreed to underpin the property in 2021. I accept its possible that might have happened, but I'm not persuaded, based on what I have seen, that is the most likely scenario. It's possible it may have shown something different but it's also possible it would have shown the same minimal movement that would have led NFU to the same position; carrying out the repairs in 2022.

I can understand that having subsidence damage to your home is enormously inconvenient, and even more so if its impacting Mr B's plans to extend his home to reach its full enjoyment. But I'm not persuaded I can hold NFU responsible building costs having increased whilst the claim has been ongoing, or for Mr B's storage costs incurred during this time. The policy terms don't provide any cover for this sort of loss. So for me to require NFU to do so, outside of the policy terms, I'd need to be persuaded that this was a loss caused by a failure of NFU. For the reasons set out above, I'm not currently persuaded that is the case. So it follows, that I don't intend to require NFU to compensate Mr B for his increased building costs, or for his storage purchases.

<u>Was NFU's offer of compensation fair and reasonable?</u>

Mr B says NFU's handling of matters has been appalling. NFU accepted there were issues with the service it provided, including poor communication with a loss adjuster, who it had agreed to replace.

I can see having issues with the loss adjuster would cause unnecessary distress to Mr B and his family, it is already a stressful situation to be in when a home has suffered damage, so I agree NFU should compensate Mr B for the impact of this.

There were also periods where the claim didn't seem to be progressed efficiently. For example, NFU said in August 2021 that it was satisfied repairs could be undertaken, but those didn't begin until May 2022, I can't see a reasonable explanation for such a delay. And when further monitoring was agreed, which seems to have been in December 2022, it took around five months for the deep-seated datum to be installed. This could have happened *quicker, had NFU handled matters better.*

Mr B has asked that a different loss adjuster firm be appointed to the claim, but NFU didn't agree to that. Mr B says NFU has said it won't be employing that firm on any further claims from 2024, showing its serious failings which have caused NFU to do so. I don't know about NFU's decision taken in 2024 regarding the loss adjuster. However, I can see why, as of December 2023, NFU didn't agree to change the loss adjuster firm.

I say this as a further monitoring period had been agreed and was progressing. The representative handling matters for the loss adjuster was changed owing to Mr B's concerns raised. This is in line with what I'd expect NFU to do, I wouldn't expect it to find a new loss adjuster firm, or change the firm, at that stage of a claim. And there's nothing to evidence that agreeing to change the loss adjuster firm at that stage would've changed anything for Mr B.

That being said, as above, I do consider NFU has not handled parts of the claim well, and that has caused Mr B and his family unnecessary distress and inconvenience. Having regard to our compensation guidelines, I think an award of £1,400 (including the £400 already offered by NFU) is appropriate to recognise the impact of NFU's failings. I know Mr B says this figure doesn't come close to justice, but I think its important to set out that I'm not awarding compensation for the entire period of the claim. Nor are my awards meant to be punitive. And much of the upset caused is also relating to having to make a claim in the first place; it is a worry to have to make a claim, and its inconvenient to deal with insurers, and have works completed. That is unfortunately part and parcel of dealing with an insurance claim; this Service can only make awards for distress and inconvenience caused over and above that usual inconvenience, as a result of mistakes NFU made.

Mr B said his furniture, which was removed to facilitate the internal repairs, was damaged by the removals company. NFU said, in its FRL, that Mr B had amended the contract with the removal company, and as he'd raised the issue of the furniture damage too late to it, it wouldn't consider it further. I don't think it's material that Mr B changed the contract he had with the removal company. What is important, is who instructed the removal company. It's not clear to me from the file whether Mr B sourced this removal company, with NFU agreeing to reimburse him, or if it arranged it.

If Mr B sourced his own removal company, then I think NFU's response in its FRL was reasonable, since it isn't liable for any damage caused by the removal firm. However, if NFU arranged it, then I don't consider its response to be fair and reasonable. It cannot reasonably say that because Mr B raised the issue later than the terms of the agreement, that it won't consider matters further. It is responsible for the actions of its appointed agents, and so it would be responsible for any damage those agents caused whilst the furniture was in storage.

So, if NFU did instruct the removals company, then it will have to consider Mr B's points around the damage to the furniture. It cannot simply say that it won't consider it as Mr B raised the issue too late; that wouldn't be treating Mr B fairly.

<u>Responses to my provisional decision</u>

NFU didn't confirm who instructed the removal company but said, in relation to that complaint point, that the matter wasn't taken further because Mr B had signed a satisfaction note at the time the items were delivered. However, it said if items have been repaired, it would consider any estimates or invoices from Mr B.

Mr B didn't accept the provisional findings. He asked whether I'd been provided with a copy of his complaint letter and said he hadn't been provided with everything sent by NFU in response to the complaint.

He said matters had indeed moved on, and that NFU has now agreed, following the further monitoring, to underpin the property. He said this showed indisputably that NFU's previous position was untenable and that it should have agreed to underpin the property years earlier. Mr B said it had caused him great distress that the provisional findings had placed more weight on NFU's evidence, even though he'd spent many hours countering that with his own comments, based on his own professional opinion.

Mr B said he didn't think it was worth spending any more time on the part of the complaint (about NFU's initial refusal to underpin) since matters had moved on. And he said that he was concerned that if I maintained NFU's untenable position had been reasonable, it could jeopardise his ongoing claim, which he'd worked so hard on.

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.

In answer to Mr B's question, I believe it was he who provided this Service with a copy of his letter of complaint to NFU, so I'm satisfied I have seen it. I accept this Service hasn't provided Mr B with every response received from NFU, but that is because that isn't how this Service works. We act informally, are impartial and fair to both parties. I haven't, for example, shared every response Mr B has made to this Service with NFU.

This Service does not operate as a court might, for example, where the entirety of the submissions from both sides are shared with the other party. We receive evidence from both parties, and the role of this Service is to give an informal and impartial answer, based on our assessment of that evidence ,along with any answers to questions we choose to ask the parties. The parties do not get an opportunity to cross-examine each other.

In relation to the items of furniture Mr B says was damaged by the storage company, I can see, in line with my provisional findings, that NFU has taken steps to consider Mr B's claim for those damaged items, so I maintain the award in this regard. Any dispute about NFU's consideration of that would need to be looked at separately, as a new complaint.

In relation to the rest of the complaint, I haven't intended to cause distress to Mr B. I appreciate he has a wealth of experience in this area, but he is not (and cannot be) an independent expert witness for his own complaint with this Service. As I said in my provisional findings, I hadn't seen that Mr B had produced any reports from any experts which persuasively countered the position NFU had reached. That doesn't mean I discounted Mr B's points, but it ultimately is my role to decide what evidence I'm most persuaded by.

Mr B says NFU has now agreed to underpin the property, I assume that's because the further monitoring has shown movement that needs to be resolved by underpinning (I say this because I haven't seen the conclusion of that monitoring or NFU's position on any of that). But, even taking Mr B's update as fact for a moment, to me, a decision by NFU, in 2024, to underpin the property isn't of itself, in my mind, persuasive evidence that NFU acted unreasonably in 2022 (when it decided based on detail available at that time, not to underpin). As such, whilst I've read Mr B's comments on this, I'm not persuaded to change my findings set out in that respect.

I realise Mr B may be concerned that this decision could cause problems with his ongoing claim. But my findings here are only based on my review of activity at a prior period of time in the claim. It couldn't fairly be used by NFU to determine future decisions, about activity occurring after the FRL of December 2023, which it might make on a claim.

I've reviewed again the compensation I was minded to award for the delays I considered NFU responsible for. I still think an award of £1,400 in total was reasonable for that. But as I've set out provisionally, this was only for matters up to the final response letter of December 2023. If Mr B were to have cause to make a new complaint, then this Service would consider that in line with our usual guidance and, where appropriate, look at any distress and inconvenience caused after that date, owing to any failures (if we were to find any) by NFU.

My final decision

My final decision is that I require The National Farmer's Union Mutual Insurance Society Limited to pay £1,400 to resolve the complaint.

The National Farmer's Union Mutual Insurance Society Limited must also consider Mr B's claim that it damaged his furniture.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B and Mrs B to accept or reject my decision before 27 August 2025.

Michelle Henderson
Ombudsman