

The complaint

Mr B's complaint is about the refusal of a claim under the legal expenses section of his sole trader business insurance policy with The National Farmers' Union Mutual Insurance Society Limited ("NFUM").

NFUM is the underwriter of this policy, *i.e.* the insurer. NFUM uses agents to deal with claims and complaints on its behalf. As NFUM has accepted it is accountable for the actions of the agent, in my decision, any reference to NFUM includes the actions of the agents.

Mr B is also represented in this complaint but for ease, I will refer to Mr B throughout.

What happened

Mr B is a farmer and was farming in partnership [REDACTED] for a number of years. The farm is tenanted, with Mr B's [REDACTED] being the only named tenant. Mr B says [REDACTED] [REDACTED] promised that, on [REDACTED] retirement, [REDACTED] would endeavour to ensure Mr B succeeded to the tenancy and he would receive the other partnership assets.

I understand that in [REDACTED], [REDACTED] served notice to dissolve the partnership, as [REDACTED] intended to retire. Mr B made an application to succeed to the tenancy but [REDACTED] subsequently sought to withdraw [REDACTED] retirement notice.

Mr B made a claim under his policy with NFUM for the legal costs in pursuing the succession of the tenancy and to obtain the partnership assets. NFUM turned down the claim in relation to the farm assets on the basis that an exclusion for partnership disputes applied. In relation to the tenancy, it said any promise made to Mr B by [REDACTED] wasn't covered by the contract disputes section of the policy.

Mr B brought a complaint to us about this and in [REDACTED] one of my Ombudsman colleagues issued a final decision on that complaint. The Ombudsman agreed with NFUM that the tenancy claim was not covered but determined that the proposed claim with regard to a promise to transfer other assets to Mr B was potentially covered. The Ombudsman directed that NFUM obtain a legal assessment of the prospects of that part of the claim succeeding (it is a pre-requisite of the policy that any claim have reasonable prospects of success).

Mr B rejected the decision which means it was not binding on NFUM. However, NFUM honoured the decision and proceeded to assess the claim. NFUM asked Mr B's solicitors for details of the assets that Mr B said had been promised to him and they responded to say it was the tenancy, livestock, plant and machinery, rental properties and other land. NFUM said it would consider the claim in relation to the livestock, plant and machinery only and asked for more details.

Mr B's solicitors then told NFUM that Mr B wanted to apply for an order that [REDACTED] was in breach of [REDACTED] fiduciary duties and seeks an order that [REDACTED] should be required to withdraw [REDACTED] objection to Mr B's application for succession of the tenancy; that the partnership be dissolved and that it should be wound up.

NFUM declined Mr B's claim on the basis that the claim he now wants to bring is in relation to the partnership agreement between him and [REDACTED] which it says is not covered under the policy terms. NFUM says the contract dispute section of the policy, which is the only relevant section of cover, provides cover for disputes about contracts for goods or services, and tenancies and this dispute is about a partnership.

Mr B is unhappy with this and complained. As NFUM did not change its position on the claim, he referred this second complaint to us.

One of our Investigators looked into the matter. He did not recommend that it be upheld, as he was satisfied that NFUM was entitled to reject the claim for the reasons it had. The Investigator said the tenancy was in [REDACTED] sole name and was not taken out by or for Mr B. The Investigator also said the partnership agreement in itself didn't create a tenancy and so it can't be considered to be an agreement "for" the tenancy.

Mr B does not accept the investigator's assessment. He has made a number of points, via his representative and his solicitor, in response to the Investigator and in his initial complaint. claim I have considered everything Mr B has said and have summarised his main points below:

- The fact that Mr B is not the named tenant is irrelevant.
- The tenancy was granted to Mr B's [REDACTED]. Mr B had no interest in it at that stage but he acquired an interest in it when the partnership was formed, which made it a joint asset between him and his [REDACTED] under that partnership agreement. This was confirmed in arbitration when it was deemed to be a joint asset of the partnership.
- It is that contract with his [REDACTED], relating to the tenancy, which is in dispute here. He has an interest in the tenancy. That contract happens to be contained in the partnership agreement, but this is not an element of a partnership dispute because it is an argument about the effect of the contract on this particular asset.
- The Investigator has said that "*the partnership agreement isn't an agreement 'for' the tenancy of land*" but that is precisely what it is. Mr B's interest in the tenancy does not predate the partnership agreement. It is the partnership agreement, as a contract between the parties, that gives rise to Mr B's claim "for" a tenancy.
- Mr B seeks to enforce his rights arising from the partnership agreement which gives him an entitlement in respect of the tenancy.

As the Investigator was unable to resolve the complaint it 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.

When the complaint was first brought to us there were a few different elements involved. Mr B has since confirmed, via his solicitor, that the only matter he is claiming for now is cover to enforce his rights in relation to the tenancy. I will therefore focus only on whether NFUM's decision to refuse cover for this was fair and reasonable and in line with the policy terms.

Mr B's policy provides cover for various legal disputes. The section of cover that both parties agree is relevant here, is the contract dispute section. This says that NFUM will pay (subject to various conditions):

"costs and expenses relating to a contractual dispute arising from an agreement or alleged agreement which has been entered into by you or on your behalf for the

purchase, hire, sale or provision of goods, services or the lease, license or tenancy of land or buildings.”

I consider this term to be sufficiently clear and fair.

It is agreed that the partnership agreement was not a contract for the purchase, hire, sale or provision of goods or services. However, Mr B says that the partnership agreement is a contract that relates to, and so was “for,” a “lease, license or tenancy of land or buildings”, which is what the dispute is about and so should be covered.

The policy term above states it will cover an agreement, or alleged agreement “entered into by you or on your behalf”. As Mr B's representatives have confirmed, the tenancy agreement is in [REDACTED] name only and Mr B had no interest in it when the tenancy was first granted to [REDACTED]. Mr B did not therefore enter into the tenancy agreement and it was not entered into on his behalf.

[REDACTED] agreed to bring that asset into the partnership with Mr B, so that Mr B could jointly benefit from farming the tenanted land but that does not mean the tenancy was a contract “entered into by you or on your behalf for the...license or tenancy of land or buildings.” What has happened and been agreed between Mr B and [REDACTED] since that tenancy agreement was first entered into does not change that.

However, Mr B also argues that the partnership agreement brought about an entitlement on Mr B's part to the tenancy and, as such, the partnership agreement is a contract entered into by him for the tenancy of land or buildings. I do not agree with this interpretation. I will explain why.

I agree with the Investigator that in order for an agreement to be “for” the tenancy of land or buildings, it would have to bring that about; in other words would have to create a landlord and tenant relationship and the policyholder would likely have to be one of the contracting parties in the tenancy.

I acknowledge the tenancy has been determined to be an asset of the partnership. The partnership agreement gave Mr B an entitlement to jointly farm the tenanted land and to share the profits resulting from that. It also seems likely that the intention was that Mr B would have the potential to succeed [REDACTED] in the tenancy when [REDACTED] retired.

However, the partnership agreement did not create a landlord and tenant relationship between Mr B and any other party. And the right to farm the tenanted property in partnership with the named tenant and the right to apply to succeed [REDACTED] in the tenancy, is not the same as having a right to the tenancy.

Mr B's [REDACTED] has no power to grant the tenancy or pass it to Mr B, or anyone else. Mr B can apply to succeed [REDACTED] in the tenancy but the decision as to whether he is allowed to do so is for the landlord and/or the relevant tribunal or court. As Mr B's solicitor has said, the partnership agreement gave rise to Mr B's claim for a tenancy. However, this does not mean it gave rise to the tenancy.

I do not therefore agree that it is reasonable to interpret the partnership agreement as having been entered into by Mr B “for” the tenancy of land.

Having considered everything very carefully, and while I am mindful of the implications of this decision for Mr B and the difficult situation he is in, I do not consider that NFUM has acted unfairly or unreasonably in refusing the claim.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 21 October 2025.

Harriet McCarthy
Ombudsman