

The complaint

Mr M and Mrs M complain about Ecclesiastical Insurance Office Public Limited Company's decision to proportionally reduce the settlement of their claim on the basis that they were underinsured.

What happened

The background to this complaint is well known to the parties, so I'll provide only a brief summary here, concentrating on the key issues.

In July 2023, Mr M and Mrs M took out a farm insurance policy underwritten by Ecclesiastical to cover their multi-building property.

They made a claim in February 2024 after a fire caused significant damage to their home. Repair costs appear to be just over £1m in total.

Ecclesiastical accepted the claim, but after assessment they told Mr M and Mrs M they were underinsured. They paid out around £600k in settlement of the claim, on the basis that Mr M and Mrs M were only 57% insured. This left Mr M and Mrs M with a shortfall of around £400k.

Ecclesiastical's calculation was based on the fact that Mr M and Mrs M's policy had a sum insured for the building of £1m. Ecclesiastical said the true rebuild cost for the home was around £1.75m, based on an expert report they'd commissioned.

Mr M and Mrs M weren't happy with this and made a complaint to Ecclesiastical. And when they maintained their position, Mr M and Mrs M brought their complaint to us.

Our investigator looked into and didn't think Ecclesiastical had done anything wrong. She thought Mr M and Mrs M were in fact underinsured and Ecclesiastical were entitled to proportionally reduce the settlement of the claim.

Mr M and Mrs M disagreed and asked for a final decision from an ombudsman.

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.

Mr M and Mrs M's policy is a commercial insurance policy. That means the insurer is entitled to assume their policyholder has a greater degree of knowledge than the average person about how insurance works and about the things they are seeking to insure.

It also means that the relevant legislation which applies in this case is the Insurance Act 2015. This places a duty on the prospective policyholder to make a fair presentation of the risk to the insurer when buying the policy.

In short, they must ensure that, *“every material representation as to a matter of fact is substantially correct, and every material representation as to a matter of expectation or belief is made in good faith.”*

When they bought the policy, Mr M and Mrs M declared the rebuild cost (the sum insured) for their home to be £1m.

I'm satisfied that is not the true rebuild cost. Mr M and Mrs M commissioned their own value at risk report after making their claim. Their own expert put the rebuild costs at around £1.3m.

I'll return later to whether this is likely to be an accurate estimate when compared to the rebuild costs proposed by Ecclesiastical's expert (c.£1.75m). Suffice to say for now that none of the experts involved think that £1m would be an adequate sum insured for Mr M and Mrs M's home.

Bearing in mind the requirements of the Insurance Act, the question for me is how Mr M and Mrs M (as commercial customers, with the relevant assumed degree of knowledge) arrived at the £1m figure for the sum insured – and whether that was a reasonable estimate given in good faith.

Mr M and Mrs M's representative tells us that they were aware that the full rebuild cost for their farm property (including both the home and outbuildings) was around £3m. This is the figure given in the survey report prior to their purchase of the property.

He says they made a “proportional allocation” of that £3m and decided that £2m of that total rebuild cost was for the outbuildings, leaving £1m for the home.

The representative (a loss adjuster) has provided his own value at risk assessment for the outbuildings (only), which indeed says the rebuild costs for all of them would be just over £2m.

It appears that assessment was carried out reasonably recently – it was only provided to us after our investigator gave her view on the case. I don't think there's any suggestion that it pre-dates the claim – or indeed, the purchase of the policy.

That being the case, it's difficult to see how that assessment would have figured in Mr M and Mrs M's thinking when they were purchasing the policy. I assume the representative's point is that they accounted for £2m for outbuildings – which, as it turned out, was accurate – so that leaves £1m for the home.

I'm not convinced by that argument. And I've heard nothing to suggest that Mr M and Mrs M made a detailed and informed calculation about the rebuild costs for the various buildings at their property before buying the policy. There's appears to be no science behind their decision to split the rebuild costs as £2m for outbuildings and £1m for the home (if that is indeed what they did at the time).

The pre-purchase survey report didn't split the £3m rebuild costs at all. There's no evidence Mr M and Mrs M made any attempt to calculate the actual rebuild cost of the home properly – indeed, by their own account, they simply took what was left of the total rebuild costs in the report after they'd subtracted what they thought was reasonable for the outbuildings.

Ecclesiastical have also provided evidence from the broker who arranged the policy, to show that, at a meeting on the day prior to inception, Mr M was reasonably strongly advised to have a rebuild cost assessment carried out – and indeed that the broker could arrange that for him.

The broker also advised Mr M about the risks of underinsurance. And those risks are made very clear in several parts of the policy documentation sent to Mr M and Mrs M at the point of – and immediately after – purchase.

So, on balance, it seems to me very likely that Mr M and Mrs M were aware (or ought to have been) of the risks of underinsurance. It's also clear they were advised to seek professional assistance in calculating the rebuild costs. But despite those warnings, they made an ill-informed guess (far too low according to all the experts) as to the rebuild costs of their home.

In doing that, I'm satisfied that on balance they failed to meet the duty of fair presentation set out in the Insurance Act 2015. It follows that Ecclesiastical are entitled to rely on the remedies set out in that Act where a fair presentation of risk has not been made.

There are two further arguments put forward by Mr M and Mrs M's representative and I'll address those now.

First, they say it was not clear to Mr M and Mrs M that the rebuild cost (and sum insured) should include demolition and debris removal costs and/or professional fees. And therefore, in essence, those should be added to the £1m rebuild cost submitted by Mr M and Mrs M *before* the underinsurance calculation is made.

I don't agree with that. Mr M and Mrs M are commercial customers and might be expected to understand that those costs would need to be included in the total rebuild cost.

It's also clear in the policy documentation that those costs will be covered.

And the very pre-purchase survey report that Mr M and Mrs M's representative suggests they heavily relied on when submitting their sum insured says that the £3m total rebuild costs include those demolition, debris removal, and professional costs. It's impossible in fact to read the £3m figure without immediately seeing (directly next to that figure) the rundown of those additional costs.

Second, the representative suggests that the home could in fact be completely rebuilt for £1m or less, assuming cheaper and more modern materials were used.

Frankly, that contradicts any normal understanding of what insurance indemnity is intended to do – which is to replace the insured item with a replacement that is the same as the item damaged or lost.

The representative argues that it's not clear in the policy terms that replacement or reinstatement will be on a like-for-like basis.

For a commercial customer – or indeed anyone taking a common sense view – it wouldn't be necessary to explicitly make that clear, in the way the representative suggests. Any natural reading of the policy terms – which talk about reinstatement or replacement – would lead one to believe that damaged or lost items will be replaced like-for-like.

I'm sure that if Mr M and Mrs M had made their claim and been told by Ecclesiastical that their home was to be reinstated using far cheaper materials, of poorer quality and with no real resemblance to the materials of their home, they would have had something to say about it.

So, in summary, I'm satisfied that Mr M and Mrs M misrepresented the rebuild cost of their home when they bought the policy. They may not have done so intentionally, but their declaration of a rebuild cost of £1m was at the very least careless – and flew in the face of the advice and warnings they'd been given.

Ecclesiastical have been keen to state their argument that this means they can apply the so-called "average clause" set out in the policy. This clause says that, where there is underinsurance, they'll settle claims proportionally after comparing the declared rebuild cost to the actual rebuild cost.

I don't agree. Our approach is that, in these circumstances, insurers need to calculate the proportional settlement based on a comparison of the premium paid and the premium that ought to have been paid.

Ecclesiastical have argued that they've "contracted out" of the terms of the Insurance Act. They think they've sufficiently drawn Mr M and Mrs M's attention to the average clause prior to the purchase of the policy. The Act does allow for such contracting out *if* the customer is made sufficiently aware beforehand.

I'm not entirely convinced by Ecclesiastical's argument.

For the sake of clarity, Section 17 of the Insurance Act sets out the "transparency requirements" if insurers are to contract out of the remedies set out in the Act.

These include not just having a policy term setting out the different arrangements but also being clear with the customer about the *effect* of those arrangements. And drawing them specifically to the customer's attention prior to purchase.

However, I don't think whether Ecclesiastical have met those requirements - and so contracted out of the relevant provisions of the Act - matters in this particular case.

I say that because Ecclesiastical have provided information about their underwriting criteria and pricing calculations. The detail of these is commercially sensitive, so I won't share that detail here.

Suffice to say, it's clear to me that if Ecclesiastical had taken the approach we prefer - and calculated the proportional settlement by comparing the premium Mr M and Mrs M paid to the premium they should have paid, they would have arrived at the same claim settlement (to within a few pounds) that they've already paid, based on their own calculations.

That being the case, the payment they've made is fair and reasonable in all the circumstances. Even if it was arrived at for what we believe are the wrong reasons.

That of course assumes that the rebuild cost specified by Ecclesiastical's expert (c.£1.75m) is more reliable than that provided by Mr M and Mrs M's expert (c.£1.3m). If the latter were more reliable, then the premium that Mr M and Mrs M ought to have paid would be smaller - and the degree of underinsurance less significant.

On balance, I find the report provided by Ecclesiastical's expert more compelling. I say this for a number of reasons, all of which our investigator has already referenced in her view. I'll repeat them here briefly.

One, there is no adjustment made by Mr M and Mrs M's expert for lath and plaster in the construction of the walls and ceilings.

Two, their report applies a lower reinstatement cost to a supposed loft conversion. The evidence we have suggests however that the top floor of the house is original and not a conversion.

Three, professional fees within the report appear to have been understated.

Four, expenses for the necessary soil investigation and asbestos reports are not included.

Five, the report uses a factor of £1,995 per square meter which appears to be based on the Building Cost Information Service (BCIS) house rebuild calculator.

That BCIS calculator provides average costings, alongside warnings that these will not apply to certain properties, based on the specification of the build, materials, and finish.

I'm satisfied those average costs would be too low in calculating reinstatement costs for a property such as Mr M and Mrs M's, given the materials used, the period features and the high quality of the construction and finish.

All of that being the case then, I'm satisfied on balance that Ecclesiastical were justified in relying on the rebuild costs set out in the report provided by the expert they commissioned (c.£1.75m). And so, their calculations of the proportional settlement are reliable, fair, and reasonable.

I understand Mr M and Mrs M are living in temporary accommodation on site. I'm sorry that they find themselves in this difficult position. But I can't reasonably say that Ecclesiastical have done anything wrong in settling the claim proportionally (and at the level they have) on the basis that Mr M and Mrs M were underinsured.

My final decision

For the reasons set out above, I don't uphold Mr M and Mrs M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M and Mrs M to accept or reject my decision before 12 February 2026.

Neil Marshall
Ombudsman