

The complaint

Mr and Mrs M complain about The National Farmers' Union Mutual Insurance Society Limited's ('NFU's) handling of their legal expenses claim.

Any reference to NFU includes the actions of its agents.

What happened

Mr and Mrs M made a claim on their legal expenses insurance policy. They wanted to pursue legal action against a third party for installing infrastructure under a road which they partly own.

NFU accepted a claim for trespass would be covered under the policy. It referred the claim to its panel solicitors for advice on whether the legal action had reasonable prospects of success, as required under the policy terms. The solicitors asked counsel for an opinion, and counsel concluded legal action wasn't likely to be successful. So, NFU said it was withdrawing cover.

Mr and Mrs M complained to NFU about its handling of the claim. NFU's agent issued a final response on 19 December 2024 and NFU issued a second final response on 21 February 2025. These matters are being addressed under a separate complaint with this service.

In December 2024, Mr and Mrs M provided further information they wanted considered, which they described as a memorandum. They then sent a revised version to NFU in January 2025. They understood this would be sent to the same panel solicitors. Their memorandum set out the key legal issues (as they saw them), the timeline and the remedies they sought.

NFU sent the memorandum to the panel solicitors for consideration, and this in turn was sent to counsel. In April 2025, counsel gave their opinion and still didn't think legal action was likely to be successful. A copy of counsel's opinion was provided to Mr and Mrs M in September 2025 by NFU. Then NFU confirmed it would be withdrawing cover.

Mr and Mrs M complained to NFU about its handling of the claim since 21 February 2025. They were unhappy that NFU had referred the matter back to the same panel solicitors, and that they only received a copy of counsel's opinion in September 2025.

NFU's agent issued a final response on 29 September 2025. It made the following main points:

- It had received further information from Mr and Mrs M in January 2025. It delayed sending this to the solicitors until 19 February 2025. It apologised for this delay.
- The solicitors obtained NFU's agreement to obtain a further opinion from counsel in relation to the additional points raised by Mr and Mrs M. This was agreed on 24 March 2025.

- Counsel's opinion was provided on 3 April 2025, but this wasn't sent to Mr and Mrs M in error until September 2025.
- It explained that it was entitled to rely on counsel's opinion (that the legal action didn't have prospects of success) and if Mr and Mrs M wished to challenge this, they would need to provide an opinion from another barrister. It explained that if that barrister's opinion said the prospects of success were 51% or above, it would reimburse them for the cost of obtaining that opinion.
- It paid Mr and Mrs M £200 compensation for its errors.

Unhappy with this response, Mr and Mrs M brought a complaint to this service.

Our investigator looked into things and recommended the complaint be partly upheld. He made the following main points:

- Mr and Mrs M had previously asked NFU (in November 2024) not to send information to the solicitors until they had provided their updated summary of the situation. He wasn't clear if Mr and Mrs M did then send further information to NFU, but given it was apparent that Mr and Mrs M disagreed with counsel's previous findings, he didn't think it was unreasonable for NFU to ask the solicitors for an updated opinion.
- Although Mr and Mrs M were unhappy that NFU referred the matter to the same panel solicitors, he didn't think that was unreasonable given the prospects assessment was carried out by counsel rather than the solicitors.
- It was accepted that counsel's opinion of April 2025 should have been sent to Mr and Mrs M at the time. However, this wasn't sent to them until September 2025. He recommended that NFU pay total compensation of £400 for this.
- As counsel's opinion didn't support that the legal claim had reasonable prospects of success, he thought it had been reasonable for NFU to rely on this. He noted that Mr and Mrs M said they have a legal opinion which contradicts counsel's opinion, and he suggested they send that to NFU for its consideration.

NFU accepted our investigator's recommendations, but Mr and Mrs M did not. The matter has therefore been passed to me for a 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.

Industry rules set out by the regulator (the Financial Conduct Authority) say insurers must not unreasonably reject a claim and must handle claims promptly and fairly. I've taken these rules, and other industry guidance, into account when deciding what I think is fair and reasonable in the circumstances of Mr and Mrs M's complaint.

Mr and Mrs M did tell NFU in November 2024 not to send further information to the solicitors until they'd provided an updated summary of the situation. They then wrote to NFU on 21 January 2025 with their revised memorandum setting out why they wanted their claim to be reassessed. I'm satisfied it was reasonable for NFU to send this information to the solicitors to see if changed the prospects assessment. Though NFU accepts there was around a month's delay here in it doing so. I'll address this below.

Mr and Mrs M are unhappy that NFU sent their correspondence to the same panel solicitors that they'd previously complained about. They thought this undermined independence and procedural fairness. However, as our investigator has pointed out, the solicitors didn't carry out the prospects assessment. This was done by counsel. Whilst I've noted Mr and Mrs M's view that solicitors formulate instructions, select documents and shape counsel's opinion, it's clear from the report that counsel had reconsidered matters based on Mr and Mrs M's January 2025 memorandum. I don't think NFU did anything wrong here.

When NFU received counsel's updated opinion in April 2025, this should have been sent to Mr and Mrs M at this time. However, this was only sent to them in September 2025 after they'd made a complaint. It seems this was due to miscommunication between the solicitors and NFU. I think this was quite poor, particularly given NFU was aware that Mr and Mrs M were already unhappy with its handling of their claim.

I've thought about how this delay impacted Mr and Mrs M (as well as the initial month's delay in sending their memorandum to the solicitors). Whilst I've noted Mr and Mrs M's points about this, counsel's opinion was that their claim didn't have reasonable prospects of success. So, like our investigator, I can't say that the legal claim itself has been impacted by the delays or that they caused Mr and Mrs M any financial loss. Though I appreciate that because they didn't know counsel's updated opinion, they were delayed in obtaining their own legal opinion. Taking everything into account, I agree with our investigator that £400 compensation (a £200 increase on the £200 already paid by NFU) seems reasonable, and reflects the impact caused to Mr and Mrs M by the delays caused by NFU's handling of their claim.

According to the policy, cover will only be provided if the legal claim has reasonable prospects of success, and this must be at least 51%. This is standard practice for legal expenses insurance. An insurer carries the risk of paying the other sides costs as well as the insured's legal costs if the case is lost. So, it's not unreasonable that an insurer wouldn't want to cover the cost of a claim if it's unlikely to succeed.

Counsel's opinion in April 2025 was that the legal claim didn't have reasonable prospects of success. So, I'm satisfied NFU was entitled to rely on that opinion and refuse to provide further funding.

NFU has explained to Mr and Mrs M that if they disagree with counsel's opinion, they can obtain an assessment from their own barrister (and if this finds they do have reasonable prospects of success, NFU would reimburse them for this cost). Mr and Mrs M have told this service they have obtained a legal opinion that contradicts counsel's view. As our investigator has explained, they should provide this to NFU to consider in the first instance. If they're unhappy with NFU's response, they may be able to bring a new complaint to this service (subject to our usual timeframes that apply).

Mr and Mrs M have also raised concerns about NFU issuing multiple final response letters. Though as our investigator has pointed out, NFU is required to look into any expression of dissatisfaction and issue a final response on this. I don't find NFU did anything wrong here.

My final decision

My final decision is that I partly uphold this complaint. I require The National Farmers' Union Mutual Insurance Society Limited to pay Mr and Mrs M an additional £200 compensation (£400 in total)*.

*NFU must pay the compensation within 28 days of the date on which we tell it Mr and Mrs M accept my final decision. If it pays later than this, it must also pay interest on

the compensation from the deadline date for settlement to the date of payment at 8% a year simple.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs M to accept or reject my decision before 13 March 2026.

Chantelle Hurn-Ryan
Ombudsman