

complaint

Mr and Mrs C say Zurich Insurance PLC (“Zurich”) acted unfairly when it decided not to renew their buildings insurance policy.

background

I’ve previously issued a provisional decision about this complaint. The following represents excerpts from my provisional decision outlining the background to this complaint and my provisional findings, and forms part of this final decision:

“In 2012 Mr and Mrs C made a claim for subsidence on their buildings insurance policy with Zurich. While the works were being carried out in 2013, Zurich learned that Mr and Mrs C were using part of their property for their business.

Zurich continued to insure the property but then refused to renew the policy in 2014. It said the business use of the property was an unacceptable risk for it to insure. And it says it wouldn’t have offered to insure them if it had known this. It offered £50 compensation for the wording of its letter and said the policy may continue if Mr and Mrs C no longer use part of the property for business.

Mr and Mrs C didn’t want to stop running their business from their home. So in 2014 they bought a buildings insurance policy with a different insurer. But they were unable to find subsidence cover with any other insurers because of the claim they made in 2012. They still don’t have subsidence cover for their home.

Our adjudicator upheld the complaint. Given the subsidence claim, she thought Zurich would’ve known Mr and Mrs C would find it difficult to get subsidence cover elsewhere. So she thought Zurich should’ve acted in line with good industry practice and continued to insure Mr and Mrs C.

After discussions with our adjudicator, Zurich’s final offer was to provide a policy to Mr and Mrs C for subsidence cover only. It offered a premium of £671.87 until March 2015 (which has now passed) and an excess of £5,000 for any subsidence claims.

Mr and Mrs C were unhappy with this. They think Zurich should provide a buildings insurance policy on the same terms as the policy it offered them in March 2013, which included an excess of £1,000 for subsidence.

my provisional findings

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

I agree with the adjudicator that Zurich should’ve continued to insure Mr and Mrs C. So I intend to uphold Mr and Mrs C’s complaint.

Mr and Mrs C told us they originally bought the buildings insurance policy with their mortgage in 1987. The policy was provided by a different insurer. They then started using part of the property for their business in 1996. And they believe they told their insurer about this at the time. They arranged separate insurance to cover the business. And this insurance policy is still in place.

Their insurance policy was transferred from their previous insurer to Zurich in 2000. Mr and Mrs C say they weren't given an opportunity to tell Zurich about the business use of their property at that time.

Zurich says although the renewal documents told Mr and Mrs C to let it know about any changes in circumstances, it accepts they wouldn't have thought anything had changed at that time. It also said they weren't given an opportunity to confirm the business use of the property at renewal. So I don't think Mr and Mrs C did anything wrong.

I note Zurich's underwriting criteria says it wouldn't have insured Mr and Mrs C if it had known about the business use. But it should've continued to do so because of the subsidence claim. This is in line with good industry practice. So I think Zurich acted unreasonably by refusing to renew Mr and Mrs C's home insurance policy in 2014.

what I think Zurich should have done in 2014

Before Zurich knew about the business use of the property, it offered to renew Mr and Mrs C's policy in 2013. This was after they made a claim for subsidence. In this 2013 renewal offer, the excess for subsidence remained the same as the previous policy (£1,000). And so, the excess didn't increase as a result of that claim.

When Zurich found out about the business use of the property, it continued to insure Mr and Mrs C under their 2013 policy. This was because the subsidence claim was still ongoing. But given the business use of the property, it added an endorsement for theft cover as well as the following exclusions to the whole of the policy:

- 'Loss or damage to any items used in connection with any business, trade or profession except office equipment in the home or items insured as specified personal possessions.*
- Any legal liability resulting from any business, trade or profession.'*

Overall, I think Zurich should have continued to offer insurance to Mr and Mrs C in 2014 and onward, based on the same terms and pricing structure as the 2013 policy – and with the same endorsement and exclusions as above. This would've kept the excess for subsidence claims at £1,000.

Because Zurich didn't do so, Mr and Mrs C have now been left without subsidence cover for their home."

responses to my provisional decision

Zurich disagreed with my provisional findings. But said it sympathises with Mr and Mrs C's position and so offered them two options for insurance.

- (i) Full buildings insurance:
- 'Zurich will offer full buildings cover including subsidence provided always that a separate policy for business use at the premises remains in force. The terms will be based on our standard terms, conditions and pricing structure for this book of business and will not include any increase in price or application of special terms because of either the subsidence claim or the business use at the property. Because of the difficulties about insuring business use on a household policy mentioned above, in the event of any claims [Mr and Mrs C] should be aware that there is likely*

to be the appropriate level of scrutiny and investigation to ascertain which policy should operate.'

(ii) Subsidence only cover:

'We appreciate the ombudsman's comments, however as previously advised, Zurich does not issue subsidence only policies. Accordingly, in the event that [Mr and Mrs C] choose this offer, it would be a bespoke policy. Furthermore, we are unable to guarantee that this option would be available indefinitely due to our existing operating systems. We are prepared to keep the excess at £1,000 as you have requested but there will be fixed costs associated with this arrangement, and reflected in the price.'

It also agreed to offer Mr and Mrs C the £250 compensation I recommended as a gesture of goodwill.

Our adjudicator put these offers to Mr and Mrs C and explained we would consider Zurich's offer to provide full buildings insurance to be fair. Mr and Mrs C had a number of questions for Zurich, which it responded to.

The case has now been referred back to me for a final decision.

my findings

I've re-considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

I've noted Zurich's comments in response to my provisional findings. But I see no reason to comment further on these, given Zurich has now made an offer to insure Mr and Mrs C – which I consider to be fair.

Mr and Mrs C asked a number of questions about the two options of insurance Zurich offered. And I think Zurich has given fair and reasonable responses. The following points have been clarified as a result.

The offer of full buildings insurance:

- Mr and Mrs C told us they have insured their business separately and will continue to do so. So this shouldn't be an issue.
- Mr and Mrs C asked whether the full buildings insurance policy would be the same 'book of business' used for their previous policy with Zurich. And Zurich confirmed the policy would be entirely familiar to them.
- They also questioned the cost. And Zurich quoted a premium for the current year of £565.47 including insurance premium tax (IPT).

The offer of a subsidence only policy:

- Zurich gave reasonable explanations about its operating system and fixed costs.
- It also confirmed this policy will not include any increase in price or application of special terms because of either the subsidence claim or the business use at the property. But it

said that because this would be a bespoke policy, it would be based on a bespoke underwriting assessment.

- Zurich quoted a premium of £118.75 including IPT for the current year.

For both offers:

- Mr and Mrs C wanted to know whether Zurich would continue to offer to renew their policy indefinitely. Zurich confirmed that, unless some very unusual situations arise, it anticipates no problems in continuing cover for Mr and Mrs C subject to the usual terms and conditions applicable to the product they choose.
- Mr and Mrs C haven't had subsidence cover since their previous policy with Zurich ended in 2014. They asked Zurich whether it will backdate this cover so there is no gap. Zurich said it will backdate the cover if Mr and Mrs C pay the premiums for it from the cancellation date of their previous policy with Zurich until the date they buy the new policy. I think this is fair.
- Zurich said it will calculate the back premiums for the subsidence cover using a pro rata calculation of the £118.75 premium it quoted for the subsidence only policy. And I think this calculation is fair and reasonable.

Looking at the terms the parties have discussed to date, I think Zurich's offer to provide either a full buildings insurance policy or a subsidence only policy to Mr and Mrs C is fair and reasonable.

Zurich should now contact Mr and Mrs C directly to finalise the details of the policies so they can decide which policy they would like to accept from Zurich, if any.

If Mr and Mrs C decide to take the full buildings insurance policy with Zurich (rather than the subsidence only policy) they will need to cancel their existing policy. In my provisional decision, I also recommended Zurich pays any cancellation costs Mr and Mrs C may incur in doing so.

I still think Zurich should pay any cancellation charges Mr and Mrs C may incur, if this happens. I say this because they wouldn't have had to buy a policy elsewhere if Zurich hadn't refused to renew their policy in 2014. And I don't think it acted fairly when doing so.

my final decision

For the reasons above and as set out in the excerpts from my provisional decision, I uphold Mr and Mrs C's complaint. Zurich Insurance PLC must do the following:

- offer to provide Mr and Mrs C either a full buildings insurance policy or subsidence only policy, based on reasonable terms (as discussed to date)
- pay Mr and Mrs C £250 compensation for the distress and inconvenience caused
- cover any cancellation costs Mr and Mrs C may be charged by their current insurer, if they decide to accept a full buildings insurance policy with Zurich and cancel their current policy (this doesn't include any costs for time on cover).

Under the rules of the Financial Ombudsman Service, I am required to ask Mr and Mrs C to accept or reject my decision before 10 November 2015.

Joanna Brown
ombudsman