

complaint

Mr A is unhappy because he feels Hfis Plc gave him wrong advice about how much to insure his rental properties for.

background

Hfis arranged insurance for two of Mr A's rental properties. The properties were insured for £85,000 each. The policy was index-linked, which meant the amount each property was insured for increased each year with inflation. So when the policy renewed the following year each property was insured for £87,550. Later that year Hfis arranged for a third rental property to be added to the policy. That property was also insured for £87,550. When the policy renewed again each property was insured for £90,177.

Mr A made a claim for water damage caused to one of the properties after a pipe burst. The insurer declined the claim, and Mr A brought a complaint to us about Hfis misleading him about certain policy conditions. That complaint was looked at by another ombudsman, who decided that it should succeed. The ombudsman said Hfis needed to:

- agree an expert with Mr A to decide what Mr A's insurer would have paid in settlement of the claim, and
- pay that sum to Mr A, plus interest (Mr A could then arrange the necessary repairs).

The other ombudsman didn't consider or decide anything in respect of a claim for lost rent. He said Mr A needed to make representations to Hfis once the repairs had been completed if he wished to pursue that.

Mr A accepted the ombudsman's decision, so it became binding on Hfis.

Since then Mr A and Hfis have been in contact with each other regarding settlement. Hfis made Mr A an offer. This was based on what Hfis thought the repair costs should be, with a reduction because it felt Mr A was underinsured.

my provisional findings

I issued a provisional decision which outlined why I didn't think this complaint should be upheld. The relevant parts of that decision are outlined below.

what I could and couldn't look at

- Mr A told us about various things he was unhappy with following the previous ombudsman's decision eg the choice of expert appointed, how the offer was calculated.
- Those issues concerned the settlement of Mr A's previous complaint following the ombudsman's decision. I explained that complaints about that didn't fall within the Financial Ombudsman Service's remit. So I wasn't able to look at or comment on them as part of this complaint. I said if Mr A felt Hfis hadn't adhered to the ombudsman's decision, he needed to get the decision enforced by the courts.
- I confirmed that the only issue I considered was any advice Hfis gave Mr A at the sale and renewal of the policy about the rebuild cost of his properties.

sale/renewal of the policy

- Hfis didn't need to ask Mr A about the amount each property needed to be insured for at every renewal. That's because the appropriate sum is established at the start of the policy and it's then adjusted each year in line with inflation. Hfis's responsibility at each renewal was simply to outline to Mr A how much each property was insured for. It was then for Mr A to determine and/or decide whether that was sufficient. In essence it's ultimately the policyholder's responsibility to ensure that the sum insured on any policy is adequate to meet their needs or the requirements of the policy.
- The policy was sold over the phone. No recording of the call was available so I wasn't able to establish what, if anything, was discussed regarding the rebuild cost of the two properties or how much they should be insured for. I suggested that it might have been something as simple as Hfis asking Mr A how much he wanted to insure the properties for and Mr A giving a figure. Or it might have been a more in-depth conversation about what the sum insured needed to represent and how Mr A might calculate that figure.
- I felt it was unlikely that Hfis set the sum insured at £85,000 or that it said this would be the cost of rebuilding each property. Hfis isn't an expert on house building and wouldn't know how much it would cost to rebuild either property. I thought it was most likely that when he bought the policy Mr A told Hfis how much he wanted to insure them for. And once Mr A had set that figure, it just naturally increased each year.
- The addition of the third property to the policy was also done over the phone. No recording of that call was available either. However, for the same reasons as above, I felt it unlikely that Hfis set the sum insured at £87,550 or that it calculated this would be the rebuild cost of the property. I again thought it was most likely that when he added the property to the policy Mr A told Hfis how much he wanted to insure it for.
- The only phone call of relevance that I'd been able to listen to was one where Mr A called Hfis before the policy renewed in 2017. It was during this call that Mr A said Hfis gave him the incorrect advice about the rebuild cost of his property.
- Mr A had received a quote from elsewhere and the main purpose of the call was to see if Hfis could reduce its price. The part of the call that was relevant to the outcome of the complaint went:
 - Hfis told Mr A the renewal price was £285.28
 - Mr A said that seemed quite high
 - Hfis told Mr A that a third property had been added since the previous renewal, it was a low rate and there was a discount applied, there was insurance premium tax and index-linking
 - Mr A asked how much was this for¹?
 - Hfis asked (to confirm what Mr A asked) 288 how much is it for the rebuilding cost?; and went on to say 90,177, and then said that's the rebuilding cost 90,177
 - Mr A responded no, the price sorry, the premium price, how much are you charging?
- The conversation went from there, but nothing further was mentioned about the 90,177.

¹ Mr A then mentions a figure but it's not clear whether it is 88 (being the street number of the recently added property or 288 (being the approximate cost of the insurance).

- It was clear that Hfis said the rebuilding cost of each building was £90,177. So it could have been interpreted that Hfis told/advised Mr A that it would cost £90,177 to rebuild each of the properties. However, I thought it was fairer, and more appropriate, to interpret what was said in the context of the conversation at that point. There hadn't been any prior discussion about the amount each property was insured for or what that meant. The discussion had centred on the cost of the insurance and Mr A had just asked a question which I thought amounted to him asking how much cover he was getting for that price. And Hfis responded by telling him how much each property was insured for (albeit saying "rebuilding cost" rather than "sum insured" or "amount each property was insured for"). The conversation about the cost of the insurance (rather than the rebuild cost) then continued by Mr A confirming it was "the premium price" that he wanted confirming.
- With that in mind, I thought Hfis was simply responding to Mr A's question about the amount of cover. I didn't think it was fair to say that Hfis gave Mr A incorrect advice about how much it would cost to rebuild either of the properties or about how much he should insure his properties for.
- Overall, I concluded that Hfis didn't give Mr A any incorrect or misleading advice that led to any possible underinsurance.

lost rent

- Any rent Mr A lost might be recoverable from Hfis because (a) he was unable to rent the property following the damage because his insurer declined the claim, and/or (b) he was unable to rent the property because of delays following our consideration of his original complaint.
- For (a), the previous ombudsman specifically said in his decision that Mr A needed to make representations to Hfis once the repairs had been completed if he wished to pursue a claim on this basis. I didn't think we were any further forward in this respect because the repairs hadn't been completed and Mr A hadn't made any representations to Hfis. So I referred Mr A back to what was said in the previous decision.
- For (b), any lost rent would be a result of either Hfis not adhering to the original decision or it delaying adhering to the original decision. Either way, as I'd already said, that wasn't something I could consider or comment on here.

compensation

- I said I couldn't award compensation for any distress and inconvenience Mr A might have suffered following his insurer's initial rejection of his claim. That was because the previous ombudsman had already decided that no compensation was due – and I couldn't over-rule another ombudsman.
- I said I also couldn't award compensation for any distress and inconvenience Mr A might have suffered following the previous ombudsman's decision. That was because anything he suffered would be a result of either Hfis not adhering to the original decision or it delaying adhering to the original decision. And again, either way, as I'd explained, that wasn't something I could consider or comment on.
- I could only award compensation for distress and inconvenience Mr A suffered as a result of Hfis giving him poor advice about the sums insured/rebuild costs. But I'd

concluded that Hfis didn't give Mr A any poor advice. So there wasn't any ground for me to award any compensation.

Overall, for the above reasons, I wasn't minded to uphold the complaint.

responses to my provisional decision

Hfis confirmed that it had nothing further to add.

Mr A didn't agree with my decision. He provided information on previous discussions he'd had with Hfis which he felt showed that it had been dishonest. For example, he referred to:

- discussions over whether or not Hfis had sent him the relevant policy documentation,
- promises Hfis made to send him recordings, and
- staff members avoiding his calls.

He felt this showed that Hfis was not trustworthy and that its overall practice is questionable. Mr A also referred to Hfis, his insurer and the loss adjuster being sister companies².

my findings

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

Some of the comments Mr A made in response to my provisional decision concerned the previous ombudsman's decision and the way Hfis has handled things since then ie the underinsurance allegation. As I've previously explained, this isn't something I'm able to look at. I can't re-visit a decision an ombudsman has already made and the Financial Ombudsman Service can't enforce an ombudsman's decision. Also, a complaint about what Hfis has or hasn't done in order to comply with the previous decision isn't within my remit.

Ultimately, the outcome of this complaint turns on whether it's been shown that Hfis gave Mr A any incorrect or misleading advice/information about how much he should insure his properties for.

I understand the sentiment of Mr A's argument – in his view he's shown that Hfis has been dishonest, deceitful etc on other occasions so it's more likely than not it was dishonest, deceitful etc during the conversations when he called to insure the properties. I haven't listened to the calls Mr A's asked me to listen to. This is because I'm looking at information given at the sale of the policy (and when Mr A added the third property) – I'm not deciding a complaint about Hfis's actions in respect of other issues. And I don't think the nature of the calls is important to my consideration of that issue. But even if I had listened to the calls and had concluded that Hfis had been dishonest or deceitful (to use Mr A's words) on other occasions, I still wouldn't be persuaded by Mr A's argument as I don't think that would give an indication one way or another about what was discussed during the two 'sales' calls.

As I've already said, it might have been the case that when Mr A called to insure the properties he simply told Hfis how much he wanted to insure them for. Alternatively, there

² I haven't checked whether or not Hfis, Mr A's insurer and the loss adjuster fall within the same overall group of companies as I don't think it's important to the outcome of this complaint. But I can nevertheless confirm that they are three separate and distinct businesses.

might have been an in-depth conversation about this and Hfis might have given Mr A information about how he might work out the appropriate sums insured. There are other possibilities too. Hfis might not have given Mr A any information at all. Or it might have specifically advised him to insure the properties for the amounts he did.

I will never know as there's no recording of the conversations available. So I can only make my decision based on what I think most likely happened given all the circumstances. And nothing Mr A's said or provided in response to my provisional decision persuades me to change my mind. For the same reasons as already outlined, of all the possibilities, I think it's unlikely that Hfis set the sums insured or told Mr A how much the properties would cost to rebuilding each property. It simply wouldn't have known as it hadn't seen the properties or had any idea what it would take to rebuild them. So based on everything I've seen, I conclude that Hfis treated Mr A fairly during the sales process.

my final decision

For the reasons outlined above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 21 July 2019.

Paul Daniel
ombudsman