

complaint

Mr and Mrs P complain that Millennium Insurance Company Limited didn't settle their claim in full under their buildings insurance because, it said, they were underinsured.

background

I attach a copy of the provisional decision I sent to the parties on 17 December 2019. In that decision I explained why I was minded to uphold the complaint and what Millennium needed to do to put things right.

Mr and Mrs P accepted my decision whilst pointing out that Millennium hadn't yet made any payment in respect of the claim.

Millennium didn't agree with my decision. In its email of 30 December 2019 it asked me to consider a number of things before reaching my final decision.

In summary it said it had given sufficient warning that it was up to the insured to check the adequacy of the sum insured; that it had advised on how the insured could do that; and that it had identified the penalties for misrepresenting the value at risk in the event of a claim.

my findings

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

I've considered everything Millennium has said. But it hasn't raised any new points or suggested that Mr and Mrs P saw any additional or different information to that set out in my provisional decision.

In other words Millennium hasn't said anything or provided any new information which would cause me to change my provisional decision.

my final decision

For the reasons given in my provisional decision I uphold this complaint.

Millennium Insurance Company Limited must now:

- Settle Mr and Mrs P's claim in accordance with the terms of the policy, but without making any adjustment for underinsurance.
- Pay interest at 8 percent a year simple on that amount from the date of loss to the date of settlement.

If Millennium Insurance Company Limited considers that it is required by H M Revenue & Customs to take off income tax from that interest it should tell Mr and Mrs P how much it has taken off. It should also give Mr and Mrs P a certificate showing this if they ask for one so that they can reclaim the tax from H M Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs P to accept or reject my decision before 8 February 2020.

Sue Wrigley
ombudsman

provisional decision

complaint

Mr and Mrs P complain that Millennium Insurance Company Limited didn't settle their claim in full under their buildings insurance because it said they were underinsured.

background

Mr and Mrs P made an insurance claim after a water leak damaged their kitchen.

Millennium arranged for a loss adjuster to visit the property. The loss adjuster calculated the rebuild cost of the property to be £550,000. When Mr and Mrs P applied for the insurance the buildings sum insured was set at £300,000. This meant that, according to the loss adjuster, they were substantially underinsured. Millennium said that in these circumstances the terms of the policy allowed it to "average" the claim. So it offered to pay just over half the claim.

Millennium also said that the damage covered both contents and buildings and that Mr and Mrs P would have to pay an excess under each part of the policy.

Mr and Mrs P didn't agree they were underinsured. They said they'd applied for the policy on-line and that, after they'd entered their address and property details, the website had automatically filled in the rebuilding costs. They said it was about what they'd been insured for before and they had no reason to think the amount was wrong. They didn't remember being asked to check this.

They also said that they thought the rebuild cost provided by the loss adjuster was too high. They said they'd now used the Building Cost Information Service (BCIS) calculator themselves and this had shown a much lower figure.

Millennium said that the on-line application process required Mr and Mrs P to answer a number of questions about the property, such as the number and type of rooms, when the property was built, the materials used and an estimate of the market value. It said that the rebuild cost was pre-filled with an estimated cost from BCIS but that this was amendable.

Millennium said it had been unable to obtain a copy of the original questions or answers given by Mr and Mrs P. But it sent us an example of a screenshot which it said formed part of the application process. Next to the section which has the rebuild cost is a box which includes the following information:

"Property rebuild costs

This is the cost of rebuilding your property in the event that it's destroyed or damaged beyond repair, including the cost of clearing the site and professional fees. The rebuild cost is different from the market value as it does not allow for the value of the land the property is built on, because this is not insured. The rebuilding cost is often lower than the market value however this is not true for all properties (for example if the property is built from stone which is no longer available locally or if it includes period or special architectural features).

Where can I find this information? If you have a recent survey report, mortgage valuation report or building insurance renewal document you should be able to find the information there. Alternatively the BCIS rebuild cost calculator may help you decide how much to insure your property for".

Later Millennium said it had done a "dummy run" of the application process and that the following recommendation would have been provided in respect of rebuilding costs:

“The rebuild cost of your property will typically be less than its market value as the rebuild cost does not include the value of the land. BCIS has estimated that your property’s actual rebuild cost could range from £213,000 to £600,000. This value could depend on the size of your house in comparison with an average property, the quantity and quality of the fittings and any special or unique features”.

With regard to the difference between the loss adjuster’s and Mr and Mrs P’s calculation it said it appeared that different information had been inputted for the size of the property.

Our investigator considered Mr and Mrs P’s complaint. She thought that Millennium was entitled to deduct an excess under both the contents and buildings part of the policy.

But she didn’t think Millennium had done enough to make sure Mr and Mrs P knew they needed to check that the amount filled in for rebuilding costs was correct. So she recommended that Millennium settle the claim without applying the average clause. But she thought that Millennium should be allowed to deduct from the settlement any additional premium Mr and Mrs P would have been required to pay if they’d insured the property for its full rebuild cost.

Mr and Mrs P agreed but Millennium didn’t and so the matter has now been passed to me to review.

my provisional findings

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

I’ve reached the same overall conclusions as our investigator but I’ve reached a slightly different conclusion of the matter of the additional premium. I’ll explain why.

Excesses

Part of Mr and Mrs P’s claim was for damaged carpets which would fall under the contents part of the policy. So I agree with our investigator that Millennium was entitled to deduct an excess under each part of the policy.

Underinsurance

Mr and Mrs P bought the policy on line. They didn’t ask for and weren’t given any advice about whether the policy was right for them.

In these circumstances Millennium was simply providing information, leaving Mr and Mrs P to decide if the policy met their needs. But Millennium had to make sure Mr and Mrs P were given enough information that was clear, fair and not misleading so that they could make an informed choice about whether the policy was right for them. And Millennium needed to ask Mr and Mrs P clear questions about the material facts it wanted to know in order to decide whether to offer them insurance and, if so, on what terms.

Millennium doesn’t dispute that the figure for rebuilding costs was pre-populated at £300,000. And although Millennium hasn’t been able to provide the original question and answer set there doesn’t seem to be any suggestion that Mr and Mrs P entered wrong information about their property when they completed the on-line form.

Millennium has provided two slightly different explanations about the rebuilding costs which it says Mr and Mrs P will have seen when they completed the application.

I can’t be sure which, if either would have been visible to Mr and Mrs P or whether it would have been possible for them to complete the form, without seeing either explanation. But I don’t think that matters for the purpose of this decision.

Millennium generated the building sum insured as an estimate based on details given by Mr and Mrs P. So I think it should have highlighted somewhere in the sales process how important it was to get this amount right and the implications of getting it wrong.

Mr and Mrs P gave their address and details about their property including the number of bedrooms and the construction of the building. As far as I know Mr and Mrs P's house doesn't have any unusual features. So I think it was reasonable for them to think the figure produced would be broadly right, certainly not around half of what Millennium says they should have insured for.

It's difficult for someone without experience to know the rebuilding costs of a property. And without clear information of the importance of checking this it seems to me to be reasonable for Mr and Mrs P to think the indication they'd been given would provide the cover they needed.

I understand why Millennium makes the points it does. But in this case, and on the limited information provided, I'm not persuaded it did enough when Mr and Mrs P bought the policy to highlight the importance of getting the buildings sum insured right and the potential implications of getting it wrong. Nor do I don't think it gave them enough information that might lead them to conclude the pre-filled cost might need to be changed by them, or how to accurately assess this figures.

I now have to decide what Millennium should do to put things right.

I think if Mr and Mrs P had been given sufficiently clear information they'd have checked the amount needed and insured the property for a higher amount if necessary. I can't see any reason why they would knowingly have left themselves underinsured.

So I agree with our investigator that it would be fair for Millennium to settle Mr and Mrs P's claim in accordance with the terms of the policy but without making any adjustment for underinsurance.

I've also considered whether it would be right to allow Millennium to deduct from the settlement any additional premium Mr and Mrs P would have been required to pay if they'd insured the property for its full rebuild costs.

In some circumstances that would be fair. But in this case I've concluded that Millennium failed to give Mr and Mrs P sufficiently clear information when the buildings sum insured was set for the policy. As Mr and Mrs P weren't at fault for the underinsurance I don't think it would be reasonable for them to have to pay any additional premium that might be due. Equally, I wouldn't have expected Millennium to have to make a payment under the buildings claim that was higher than the sum insured.

So my provisional decision is that Millennium should:

- Settle Mr and Mrs P's claim in accordance with the terms of the policy, but without making any adjustment for underinsurance.
- Pay interest at 8 percent a year simple on that amount from the date of loss to the date of settlement.

my provisional decision

I'm minded to uphold this complaint and direct Millennium Insurance Company Limited to settle the claim as set out above.