

## **complaint**

Mr and Mrs S complain that Saga Services Limited mis-sold them a home emergency insurance policy, and as a result a claim was rejected.

## **background**

Mr and Mrs S took out a home insurance policy, with additional home and heating emergency cover. The following year they made a claim as there was a fault with their boiler; however this was declined on the basis that it was only a partial failure, and not a complete breakdown.

Mr and Mrs S complained to Saga that it had not been brought to their attention when the policy was taken out, that there were different levels of cover which could have been chosen. Saga investigated the complaint. It agreed that the advisor in the initial sales call did not mention the exclusions which applied (specifically, that partial failure was not included under the level of cover taken out). However, it said that it did not feel it was reasonable for the advisor to explain all the exclusions as they were set out in the policy booklet. It therefore did not believe the policy had been mis-sold.

Saga went on to say that the claim would not have been covered in any case, because of 'human interference'. This was due to the fact, it says, that the water tank of the boiler had been filled up excessively following the incident. However, this point has not been pursued further in this complaint, and so will not be considered here.

Mr and Mrs S brought their complaint to this service. The adjudicator was of the view that the policy had been mis-sold and she recommended that the complaint should be upheld. This was because of the evidence of the discussion in the sales call. She noted that during the call, the advisor asked Mr and Mrs S's son (who was making the call on their behalf) whether they wanted home emergency cover. The advisor said there were three different levels of cover, however, that there was a special offer on the 'home and heating' cover, and only details for that cover were provided. The adjudicator felt there was no opportunity for consideration to be given to taking out a higher level of cover, or even the basic home emergency cover.

She agreed that it is not reasonable for a sales advisor to go through all the exclusions that apply, however was of the opinion that it was important to give the consumer the option of what level of cover they would like to take out by pointing out the key differences. As this was not done, the adjudicator considered that Mr and Mrs S had missed out on being able to make a successful claim.

The adjudicator recommended that Saga should pay Mr and Mrs S £100 compensation for the upset and inconvenience they had suffered from being without heating and hot water while having to arrange to have the repairs attended to privately. She also recommended that Saga should deal with the claim as if the higher applicable cover had been in place, deducting the additional premium which would have been payable for that higher cover, from the settlement amount, and adding 8% interest.

The repairs to the boiler cost Mr and Mrs S £237 including VAT. The premium for the higher level of cover would have been £240. As Mr and Mrs S had paid £29.99 for the lower level of cover, £210.01 would need to be deducted and therefore the cash settlement would be £26.99, plus the 8% interest.

Saga agreed with the adjudicator's recommendations; however Mr and Mrs S did not. Although they were happy with the £100 compensation, they were unhappy that Saga could deduct the additional premium from the repair invoice.

Mr S initially said that had he known about the differences in cover between the different levels, he would have taken the higher level. However, he subsequently said that had he been made aware of the differences in premium, he would not have taken out the higher level of cover. The adjudicator considered, in that case, that although the policy had been mis-sold, Mr and Mrs S had suffered no prejudice in taking out the lower level cover – as that is what they would have taken in any case.

Saga then agreed, in addition to paying £100 compensation, to either:

- refund the premium actually paid for the home emergency cover and add 8% per annum from the date of claim to the date of settlement; or
- deal with the claim as if Mr and Mrs S were always on the higher level of cover, and deduct the difference in premium from any cash settlement. Again, 8% interest per annum from the date of claim to the date of settlement would be added to any cash settlement.

Mr and Mrs S maintain they should receive the cost of repairs to the boiler, together with the premium they paid, compensation and interest on the total amount.

The matter has therefore been referred to me to decide.

### **my findings**

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

I am satisfied that the sales call was inadequate in terms of providing Mr and Mrs S (through their son) with the opportunity to make a fully informed choice as to the appropriate level of cover for them. I acknowledge that all possible exclusions should not necessarily be expected to be discussed in the call; however, those which might reasonably be regarded as significant in influencing a consumer's choice between various levels of cover should be raised. In this case, it is clear that Mr and Mrs S were not made aware of the differences in cover available under the different levels.

I am not, however, persuaded that Mr and Mrs S have actually been prejudiced by this effective mis-sale. This is because Mr S has now said that they would not have taken out the higher cover, because of the higher premium. This means that they would not have been covered for the fault in their boiler, in any case.

Irrespective of what Mr and Mrs S would have done had they had all the necessary information available to them at the time, it remains the case that they were not in a position to make a fully informed choice, and I consider that should not have happened and so they should be compensated for that. I appreciate that they have had the concern and upset of discovering the limitations of the policy, together with the inconvenience of having to handle the consequences of that. I am satisfied that £100 is fair and reasonable under the circumstances.

Because of what appears to be some uncertainty as to what steps Mr and Mrs S would have taken, then I consider that either of two possible alternative resolutions would be fair and reasonable. They are to proceed as if Mr and Mrs S would have taken the policy they did, and refund that premium; or, to proceed on the basis that they would have taken the higher cover, in which case they should still pay the higher premium, while having the claim met. I understand the net financial result in both cases will be similar. I consider it reasonable that Saga take into account any preference which Mr and Mrs S express in regard to these alternatives.

### **my final decision**

For the reasons above, it is my final decision that I uphold this complaint.

I require Saga Services Limited to either:

- refund the premium actually paid for the home emergency cover and add 8% simple interest per annum on that amount, calculated from the date of the claim to the date of settlement; or
- deal with the claim in line with the remaining terms and conditions of the policy, as if Mr and Mrs S were always on the higher level of cover, and deduct the difference in premium from any cash settlement. Again, 8% simple interest per annum should be added on the cash settlement, calculated from the date of claim to the date of settlement; and
- in either case, also pay Mr and Mrs S £100 compensation for the concern and inconvenience caused.

Helen Moye  
**ombudsman**