

complaint

Mr S has complained that due to an error with Direct Line's website he's underinsured by approximately £40,000 under his Direct Line landlord insurance policy, which is provided by U K Insurance Ltd (UKI). UKI said that because of being underinsured, Mr S is liable for 31% of the costs in relation to a claim he made for fire damage to the kitchen in his property.

background

Mr S applied on-line with Direct Line for buildings and contents insurance on a buy to let residential property in May 2015. He then renewed the policy in 2017. Mr S made a claim for damage to the kitchen following a fire at the property in June 2017.

UKI arranged for a loss adjuster to visit the property in June 2017. The loss adjuster calculated the rebuild cost of the property at just over £135,000.

Mr S had said the rebuild cost was £95,000 when he took out the policy and this is what the building was insured for. This meant – according to the loss adjuster - it was substantially underinsured. As £95,000 was less than 85% of the rebuild value, UKI decided the terms of the policy allowed it to apply 'average' and pay 69% of the claim.

Mr S complained to UKI and said that when he took out his insurance online he used the recommended calculation for the value of the rebuild. He also said that he believes he's fully insured for the work that needs to be carried out to the kitchen, as the property is only under insured for a total rebuild.

UKI didn't uphold Mr S's complaint and said:

- The loss adjuster calculated the rebuild cost of the property and this showed the sum insured was only 69% of what it should have been.
- This means that the claims department will only accept liability for 31% of the costs involved.
- At the time the policy was first taken out UKI website didn't provide access to a rebuild calculator. This was introduced three months later. UKI website pointed Mr S to the Building Cost Information Service (BCIS) website, which is part the Royal Institute of Chartered Surveyors (RICS).
- It said it had no system for checking whether the rebuild cost Mr S provided was right.
- It would reconsider its position if Mr S could provide evidence to show the rebuild cost of his property was £95,000.

UKI has since confirmed that there was a typing error in the final response letter and it should have stated that the claims department would only accept liability for 69% of the costs involved. It's also confirmed that Direct Line's website did not, in fact, point Mr S to the BCIS website or any other website that might have provided a rebuild calculator.

Our investigator considered Mr S's complaint. She didn't think Mr S was underinsured because of a problem with Direct Line's system, as the application form he completed asked him to enter the buildings sum insured he wanted. And – in view of this and the policy terms – she agreed with UKI on the fact Mr S is liable for 31% of any repair cost. Although she felt the error in the final response letter had caused Mr S distress and inconvenience and she suggested UKI pay him £100 in compensation for this.

UKI agreed, but Mr S was unhappy with this outcome and asked for an ombudsman's decision.

I then contacted Direct Line and outlined the reasons why I was considering upholding Mr S's complaint. I said:

- From screen shots provided, I can see that Mr S was prompted to enter a "buildings sum insured". The website explained that this is the cost of rebuilding the property if it was completely destroyed and so was not the market value.
- When Mr S first took out the policy there was no rebuild calculator on Direct Line's website or link to an external website, such as BCIS, which would have helped Mr S arrive at the correct rebuild cost.
- When Mr S contacted UKI following the fire, he was told the buildings sum insured was an estimate generated by the website and based on information about the property provided by him. He was told he should've received follow up documentation confirming it was an estimate and that it was his responsibility to ensure the property was adequately insured.
- There's some confusion about whether Mr S entered the sum insured when he took out the policy or whether it was automatically generated by the Direct Line's system. And the information provided by UKI suggests that either of these things could have happened.
- Regardless of how the sum insured was generated, Mr S should've been provided, with information that told him that it was his responsibility to ensure the rebuild cost was correct and what the rebuild cost meant during the online sales process or immediately afterwards in some sort of key facts document or policy summary.
- Direct Line should also have highlighted the average clause in the sales process or a key facts/policy summary document.
- Direct Line hadn't highlighted any of these things.

I explained why I felt this had led to Mr S not realising the importance of checking the sum insured was adequate and that if Direct Line had fulfilled its obligation, he would most likely have chosen the correct sum insured. I went on to explain that, in view of this I felt UKI should settle his claim in full.

In response, Direct Line said it feels the policy document clearly highlights the importance of the policyholder ensuring that the property is adequately insured, as it's listed under a red heading about index linking on the contents page at the front of the policy. In view of this it still feels its original decision not to uphold Mr S's complaint was correct.

I issued a provisional decision on 5 March 2018. I explained that I intended to uphold Mr S's complaint and ask UKI to pay his claim in full. I gave both parties until 19 March 2018 to respond with any further comments.

Mr S responded and indicated that he was largely happy with the provisional findings. He had some concerns about the alternative accommodation payments he received from Direct Line. These had been paid by Mr S to his tenant without Mr S continuing to collect rent. I have spoken to Mr S by telephone and he has agreed that while this agreement with his tenant has left him out of pocket, Direct Line have fulfilled their obligations around

paying for alternative accommodation. So no further payments for alternative accommodation will be sought.

Direct Line did not respond with any further comments.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I'm intending to uphold Mr S's complaint.

There is some confusion over whether Mr S did his own calculations and arrived at a figure for the sum insured when he took out the policy or whether the amount was automatically generated by UKI's website. Mr S says that he entered information about the property, such as number of bedrooms and the website then generated the amount to be insured.

UKI provided conflicting information about how the sum insured was arrived at. It provided screenshots that suggest the sum insured was entered by Mr S. But it has also provided information about a conversation Mr S had with one of its advisors that suggests the website generated an estimate, which Mr S should have confirmed as correct (or not) at a later date.

What this means is that I can't be certain just how the sum was arrived at. So I've put this discrepancy to one side and looked at what I would have expected to happen in either scenario.

If Mr S had entered the sum insured without any input from Direct Line, then - as a matter of good industry practice - I think Direct Line should've highlighted somewhere in the online sales process or soon afterwards how important it was to get the buildings sum insured right and the implications of getting it wrong.

If Direct Line had generated the buildings sum insured as an estimate based on details entered by Mr S, I think it should've highlighted somewhere in the online sales process or soon afterwards how important it was for Mr S to check it was right and the implications of it being wrong

Direct Line could have done this in a number of ways, but it's really about making sure the customer is aware of the most significant limitations and exclusions in the policy they are buying.

This is because it's difficult for a private landlord to know the rebuilding cost of a property unless he's been involved in rebuild or new build projects. There are of course ways for landlords to check the rebuilding cost, but unless they appreciate the importance and potential significance of getting it wrong, they may think it's acceptable to make an educated guess safe in the knowledge their policy will provide the cover they need, unless their property is totally destroyed, which is of course quite unlikely.

And I don't think Direct Line (UKI) did enough when Mr S bought his policy to highlight the importance of getting the buildings sum insured right and the potential implications for Mr S of getting it wrong.

UKI has said that it believes the information provided in the paragraph entitled "Index Linking" in the contents section of the policy document it provided after Mr S bought the

policy is prominent enough and should've alerted him to his responsibility to ensure the sum insured was correct. I disagree. This paragraph simply talks about how the sum insured must be adequate to ensure that sums insured stay in line with increasing costs and prices. It's not specifically drawing the customer's attention to their responsibility to ensure the sum insured is correct and the potential consequences if it's wrong. It doesn't mention the potential consequences at all. And – in any event – this document was provided after Mr S had bought the policy. And – even if he had access to a copy in the sales process - it's well established good industry practice that a business selling a general insurance policy needs to do more to highlight significant exclusions and limitations than simply provide a policy document or access to one.

As I think Direct Line (UKI) failed to fulfil its obligations to Mr S when it sold the policy, I have to consider what he'd have done if they had fulfilled them, to decide whether or not he's lost out. So I've asked Mr S what steps he'd have taken if he'd known the importance of getting the building sum insured right and the potential consequences of getting it wrong. He's said he would have taken any steps necessary to ensure the house was fully covered. He said that any additional cost would not have mattered, as he considers that there is no point having only a proportion of his house insured. So I think if he'd realised the importance of getting the sum insured right he'd have checked it by whatever means necessary and realised it needed to be much higher. So I think it's most likely that he'd have chosen a higher sum insured and that the building sum insured under his policy at the time of the fire would have represented the full rebuilding cost of the property.

This means Mr S has lost out because of UKI's failure to meet its obligations when it sold the policy and so I think the fair and reasonable outcome to this complaint is for him to be fully compensated for this.

The repairs to Mr S's property have now been completed with Mr S paying 31% of the cost. He said this was a struggle and he's been going through a remortgage application to help finance it. In the meantime he had to pay the contractor in part and he's been fortunate that the contractor has agreed to collect the rest in instalments for the time being. He also explained how he had to pay extra electricity costs in order to dry the property out, which UKI haven't reimbursed. And that it took around four months for building work to start on the property, because he didn't have the money to pay his proportion of the cost and he found it hard to find a suitable contractor. That said, he did get a full loss of rent payment for that period. But I accept it all must have been very distressing and inconvenient for him. And I think he should be compensated for this as well as for his financial loss.

putting things right

So I think to put things right UKI should do the following:

- Pay the balance of Mr S's claim for damage to the kitchen at his property. As Mr S has already had the work carried out, UKI will need to cover the costs he has already incurred including associated costs. This might include, for example, skip hire. Also, the cost of work that he would reasonably have expected to carry out but could not, because his own funds would not stretch to it. This would be subject to Mr S being able to provide evidence of costs.
- Pay for any additional utility costs, such as electricity, that were incurred during the period of time between the fire and the work on the property starting. This would be subject to Mr S providing proof of increased use,

perhaps in the form of utility bills for the period before and after the insured event, which show increased consumption.

- Pay interest at 8% per annum simple on any money Mr S has already paid out, from the date he paid the money to the date UKI paid his claim in full¹. Mr S will need to provide proof of the payments already made to the contractor. I appreciate Mr S may have used his credit card to make some of these payments, but I think simple interest is the best way to allow for the fact he spent money he shouldn't have had to spend.
- Pay Mr S £300 in compensation for the distress and inconvenience to him of having to wait four months to start the work on the property as well as the inconvenience of having to carry out some of the unskilled work on the property himself.

my final decision

For the reasons set out above, it's my final decision that I uphold this complaint.

I order U K Insurance Ltd to pay the amounts set out above in the putting things right section, subject to the evidence I've said Mr S needs to provide.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 26 April 2018.

Martina Ryan
ombudsman

¹ If UKI considers it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Mr S how much it's taken off. It should also give Mr S a certificate showing this if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.