

The complaint

Mr and Mrs B complain that The National Farmers' Union Mutual Insurance Society Limited ("NFU") mis-sold an all-risks insurance policy for their farm which in turn led to a claim being declined.

Any reference to Mr and Mrs B or NFU includes any respective agents and representatives.

What happened

The background of this complaint is well known to both parties. So, I've summarised events.

- Mr and Mrs B held NFU insurance for their farm for many years. In 2018 they were sold an all-risks policy to cover their farm, which is comprised of various different buildings. This policy was sold to them by NFU during an advised sale.
- The policy did not include wet peril cover for a particular barn that was an open sided building (Barn Y). NFU has said since this related to the condition of Barn Y which it says was not in a suitable condition for cover as an open sided building. And it acknowledged during its sale it failed to inform Mr and Mrs B of this.
- In 2021 Mr and Mrs B developed plans to convert Barn Y from an open sided barn into accommodation. This would've involved demolishing a rear extension and various works to restore and renovate the barn to then turn it into apartments.
- In early 2022 works began to Barn Y. Including removal of a lean-to extension and groundworks beginning. In February 2022, following a storm, Mr and Mrs B sought to claim on the policy for related storm damage to Barn Y – which had collapsed.
- NFU investigated the claim. It said at the time of its investigation the original building had already been removed so it was unable to establish the condition of Barn Y. But NFU said it had reviewed the planning proposal for the site that included photos of Barn Y. It said the planning application statement said the barn was no longer functional for agricultural purposes and was in a dilapidated state. And it raised the following concerns:
 - Visible rising damp and significant mould - which it said could adversely affect the structural integrity of external brick walls;
 - Roof and guttering were moss covered indicating further damp and obstruction of drainage which will have increased the fragility of the roof, which also appeared bowed on one section indicated a deteriorating frame;
 - Supporting beams to the open sided section appeared rotten and unsafe;
 - External wood panelling showed signs of rot, warping and breakage.
- NFU declined the claim as it said there was no storm peril included under the policy for Barn Y – as it generally will not provide cover for open sided buildings. But for those it would cover, they would need to be maintained at a high standard. And here, it said even if it had provided cover for this building it would've declined a claim on the basis of it not being maintained in a good state of repair.

- So, Mr and Mrs B complained, stating they had asked NFU for an all-risks policy for all buildings, and had believed such cover had been in place since 2018. They said if NFU had told them of the requirement to complete repairs and fit an additional wall, they would've done so. Mr and Mrs B also said they would've agreed to pay an increased premium to ensure cover was in place.
- The matter came to this Service and one of our Investigators looked into what happened. She initially upheld the complaint, saying:
 - NFU's failure to provide information about the level of cover removed Mr and Mrs B's opportunity to carry out additional repairs and works to ensure Barn Y was insured. And if they had known NFU wouldn't have covered the building, they would've sought cover elsewhere. Of which, Mr and Mrs B had provided evidence to support this in the form of a quote from another insurer (Company A) that included wet cover for the Barn Y as an open sided building.
 - To put things right, she directed NFU to appoint a loss adjuster to assess the claim under the terms of Company A's policy – and if they determined the claim should be paid for NFU to cover the cost. She also directed NFU to pay £500 compensation for the distress and inconvenience caused.
- NFU requested evidence of what was submitted to Company A, and following a back and forth, it highlighted an email from Mr and Mrs B to Company A asking it to confirm if the insurance would be covering Barn Y for wet perils. NFU requested Company A's response and highlighted concerns about the quote provided as it included incorrect details about the property type, date of construction and build materials.
- Mr and Mrs B said they would confirm this with Company A. But they provided nothing further from Company A – saying the quote could not be changed but did say the cover included Barn Y. The Investigator looked again and said the absence of evidence to support Company A would have insured Barn Y meant she couldn't reasonably conclude Mr and Mrs B could've obtained alternative cover elsewhere.
- Mr and Mrs B disagreed, saying:
 - They were told by insurance brokers that the market was very different in the two years between the claim and the original sale. This was due to a change in regulations which led to underwriters changing their stance on bespoke quotations – which they said could've been easy to find cover two years prior.
 - They said the quote they'd been asked to obtain was limited in nature, and alternative policies could've been possible to get.
 - NFU's actions had led to them being unable to carry out repairs or alterations to the building to make it acceptable to insure. They estimated repairs at around £6,300 and said another building on the site was in a similar condition and NFU had agreed to insure that building for storm perils – so they believed it was only the open sided aspect that led NFU to not cover them.
- Our Investigator looked a final time and upheld the complaint again - reverting back to her original redress. This was because she was persuaded by the cost of repairs Mr and Mrs B said it would've cost to close off the building.
- NFU said even if Mr and Mrs B had decided to enclose the barn in the way they described, this would not have meant the building was in a satisfactory condition nor the storm peril being allowed. It highlighted the building was undergoing renovations at the time the storm occurred – which it said suggested the building would not have been likely to be an insurable risk for wet perils cover as a result of incomplete repairs. And it challenged what level of repairs Mr and Mrs B would've "easily" put in

place, reiterating concerns about the condition of the barn.

- NFU also said as Mr and Mrs B's intention pre-storm was to effectively demolish and rebuild the building, it challenged what additional costs were incurred as a result of the storm.

I issued my provisional decision on 9 February 2024 explaining why I was upholding the complaint but for different reasons to our Investigator. I've included an extract of this below.

"NFU has accepted it did not make it clear to Mr and Mrs B that Barn Y was not covered for wet perils during its advised sale. So I don't need to consider this further, I'm satisfied this was a mistake and the responsibility of NFU.

In turn, I have to consider the impact of this mistake. That is to say, I have to determine what Mr and Mrs B would've most likely done had they been informed Barn Y was not going to be covered for wet perils under their NFU policy in its current condition. So, I've thought about their potential options. Broadly, other than accepting the limitation of the cover, I consider these options to be:

- seek insurance cover elsewhere; or
- complete renovations or repairs to bring the building into a good state of repair so that NFU/another insurer would cover Barn Y.

I've considered these options in turn.

Seek cover elsewhere

Mr and Mrs B told this Service that Company A would insure their farm, including Barn Y for wet perils. But despite being given ample opportunity to provide a response from Company A to this question, we've been given nothing further. As a result I'm not satisfied Company A, nor any other insurers, would have most likely provided cover for Barn Y as Mr and Mrs B previously suggested.

Mr and Mrs B have described brokers telling them the market for this type of insurance has changed over time. And they could've "easily" obtained cover in 2018. This may be the case, but this isn't supported by any evidence. So I'm not persuaded cover for an open sided building would be freely available as they've suggested. It follows, based on the available evidence, I'm not persuaded NFU's mistake prevented Mr and Mrs B from obtaining cover elsewhere for Barn Y – given its condition at the time of the 2018 sale.

Complete repairs

As I have outlined above, NFU has said it wouldn't generally insure open sided buildings. But, if it were to, it would need to be maintained to a high standard. It has provided comments from its underwriter to support this.

So, I need to think about the condition of Barn Y to understand whether NFU would've most likely insured it based on its criteria. I'll discuss the evidence I have describing Barn Y's condition.

Mr and Mrs B provided comments from a consulting structural engineer from November 2020. This describes the condition of barns on the site, and regarding Barn Y comments:

"This barn, having the oldest components and being wholly open to the elements on one elevation, has numerous defects and has undergone numerous localised repairs.

The posts at the front are decaying at the base, causing them to gradually lower. This is exerting a "twist" into the frames that they support, which in turn increases the stresses in the timbers, particularly at the joints. This oversteering can and has caused some of the joints to pry apart and the timbers to locally split.

Elsewhere, there are other defects in the timber, as would be expected in a structure of this age and construction.

Numerous repairs have been attempted, to varying degrees of effectiveness, many of which are unsightly and unsympathetic."

It concludes:

"The Northern barn is of most concern. The posts sinking at the front are causing problems with the frame which if left will eventually result in the structure becoming unstable.

A careful and thorough survey will need to be undertaken to determine the repairs required and the proposed sequence, but the ultimate aim would be to raise the posts back up and seat them on piers detailed in such a way as to prevent water ingress into the end grain.

The areas of decayed timber, where these compromise the structural integrity of individual elements, will need to be removed and a new section carefully scarfed in. At all times, the objective would be to retain as much of the original timber frame as possible and to be clear where intervention has occurred by, for example, not staining new wood, or trying to disguise repairs. It is important that the repairs are honest.

As stated above, the vast majority of the timbers are in relatively good condition and I believe that almost all of them can be saved."

NFU reviewed the images provided within the planning documents submitted by Mr and Mrs B. It stated:

"...we reviewed the pictures. We think it is quite clear that the buildings are in a state of serious neglect and were therefore never suitable for provision of storm and flood cover.

There is visible rising damp and significant mould, adversely affecting the structural integrity of external brick walls. Roof & guttering are moss covered indicating further damp and obstruction of drainage, which over time will have increased the fragility of the roof, which also appears bowed on one section indicating a deteriorating roof frame. Supporting beams to the open sided section appear completely rotten and unsafe. External wood panelling also shows signs of rot, warping and breakage.

The building appears to have been neglected for a significant period of time, due to the pending plans for significant renovation."

From this I'm satisfied Barn Y on the whole was not in good condition. And that any sort of renovation would not be straightforward nor inexpensive.

Mr and Mrs B have suggested they could've incurred a repair cost of around £6,300 to install a single skin of 140mm blockwork with a feather edge timber cladding to enclose the barn. Even if this were the case, I'm not satisfied such an enclosure would resolve the other issues that have been listed above given the list of issues described. So, I'm not satisfied any sort of temporary repair would've been an avenue Mr and Mrs B would've most likely pursued.

And given the wider works necessary, I'm not persuaded that the knowledge that Barn Y wouldn't have been covered for wet perils would've led to Mr and Mrs B completing the wider renovations sooner than they did.

To summarise, I'm currently minded to conclude that if everything happened as it should've done – and NFU had clearly informed Mr and Mrs B that Barn Y was not covered for wet perils – it would not have materially impacted their eventual situation, so there has been little in the way of detriment beyond the personal frustration, mismanagement of expectations and disappointment they experienced. I say this as I don't believe they've shown they could've found alternative cover elsewhere, nor do I think any sort of simple repairs would've been viable, nor that the knowledge of the extent of their cover would've most likely impacted the timeframe they completed the renovation.

Mr and Mrs B put forward that NFU had only declined cover due to the lack of enclosure. And they said on this basis the condition of Barn Y was similar to another barn on site. I don't think this is the case, as the comments provided by Mr and Mrs B's structural engineer do not support this, and specifically outline that Barn Y was in a worse condition compared to others on site. Furthermore, having looked at the photos and surrounding evidence I'm satisfied this is the case. So, this doesn't change my mind.

There has been further discussion from NFU about whether or not it would've covered a claim in any case. But this issue isn't a matter I have to decide on, as I'm satisfied NFU wouldn't have insured the property in its condition so any exclusions fall away.

impact on Mr and Mrs B

While I'm satisfied NFU's lack of communication about cover most likely would not have changed the circumstances of what happened, it is clear to me that the experience was distressing and frustrating for Mr and Mrs B. Their understandable belief was they would be covered for all risks – and this simply wasn't the case. I understand why this mis-management of expectations would be so disappointing to them. And balancing this against the impact of the mistake, I'm currently satisfied a sum of £500 compensation is fair in the circumstances to recognise this."

I gave both parties until 23 February 2024. Mr and Mrs B asked for an extension, so I gave both parties until 28 February 2024. This time has now passed.

NFU responded to say it accepted the decision.

Mr and Mrs B disagreed. They said I had dismissed their willingness to carry out repairs or find alternative cover at the time. They say they would've taken any measures possible not to be in the position they were left in, had they been properly advised. And my decision and

compensation awarded didn't factor in the scale of the loss as a result of NFU's mis-selling, including the financial turmoil, stress and anxiety this has caused.

Mr and Mrs B also provided a response to specific points within the decision, this included:

- NFU never reviewed the site before agreeing cover which other insurers have since said they would have done before providing cover. Their broker had said cover for a hypothetical building was not possible – and said this re-affirms that failing to compel NFU to cover the claim was unreasonable. And they simply could not provide any alternative quotes now. So, my decision to say cover couldn't be found elsewhere was subjective.
- The barn had been re-roofed with new felt and batten with gutters cleared before cover was withdrawn. Significant repairs and maintenance had been carried out on the barns at the time of collapse. So NFU's commentary about the barn it believed to be inaccurate.
- They had not been told before that enclosing the barn alone would not be sufficient. And they were never told what a "high standard" would be from NFU. Repairs they would've completed would not have been temporary, and included a full foundation and structural tie in. This was also on the basis of converting the barn from open to closed.
- It was inaccurate to say the barn would be demolished – and it was pivotal it was in a good state of repair for the wider planned works to go ahead.
- I had not considered the scale of the losses in question and the impact this had on interest and personal funds.

So, the complaint has been passed back to me for an Ombudsman's final decision.

What I've decided – and why

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 still upholding this complaint for the reasons previously given. I've thought carefully about all the points Mr and Mrs B have put forward, but these haven't changed my mind. I'll address these in turn.

- Mr and Mrs B have said they're unable to provide any evidence to show they would've been able to get cover elsewhere. They say their ability to do so has been prejudiced by the circumstances – given the Barn Y cannot be reviewed by any particular insurer.

I've been clear I agree that NFU failed to make the level of cover clear to Mr and Mrs B. But it doesn't follow that NFU therefore should cover this claim. I have to consider on balance what impact this mistake has had. And here, there's simply an absence of any evidence to support that cover would've been available elsewhere. Given what I've seen of the condition of the property in the reports and evidence provided, I'm not persuaded cover would've likely been available elsewhere. So, this hasn't changed my mind.

- Mr and Mrs B have said the repairs carried out meant that Barn Y was in a much better condition at the time of the incident. All parties have had ample opportunity to provide any evidence in this case to support their respective positions, and simply I've been given little to support Mr and Mrs B's assertion that Barn Y's condition was improved. And while I accept repairs may well have been carried out, based on the

available evidence I'm not persuaded these were to the extent that outweighs the commentary provided by their own consulting structural engineer nor NFU's commentary based on the available photos that I've been provided with.

- Mr and Mrs B say they were not told previously that enclosing the barn would not be sufficient. This may well be the case but following my provisional decision they've had the opportunity to respond to this. They've said the repairs they'd have completed wouldn't have been temporary and described more extensive works they'd have completed. I think this supports my provisional thoughts that a temporary repair wouldn't have been possible.

And so again, as I've outlined and for the reasons previously given in my provisional decision, given the wider works necessary, I'm not persuaded that the knowledge that Barn Y wouldn't have been covered for wet perils would've led to Mr and Mrs B completing the wider renovations sooner than they did. I understand in hindsight they have suggested this would be the case. But in the circumstances I disagree this is most likely.

- I take on board Mr and Mrs B's comments that the Barn wouldn't be demolished. I haven't used this language myself. And this hasn't changed my mind that Barn Y's renovation would not be straightforward nor inexpensive.
- I want to be clear on the subject of compensation I don't doubt this experience has been very frustrating and distressing for both Mr and Mrs B. I've thought carefully about all of their submissions and commentary when deciding compensation. However, my conclusion around the impact of NFU's actions was that their circumstances effectively wouldn't have changed had NFU done what it should've done – brought their attention to the level of cover for Barn Y. As a result, I'm not awarding them for the distress and frustration they've experienced in handling the collapse of the barn and the surrounding financial issues – simply for the mismanagement of expectations and disappointment they've experienced at discovering the barn in question wasn't covered under the policy.

My final decision

For the above reasons, I'm upholding this complaint and direct The National Farmers' Union Mutual Insurance Society Limited to pay Mr and Mrs B £500 in compensation for the distress and inconvenience it has caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs B to accept or reject my decision before 28 March 2024.

Jack Baldry
Ombudsman