

The complaint

Mr and Mrs B have complained that The National Farmers' Union Mutual Insurance Society Limited (NFU) have sought to limit their claim settlement following impact damage to one of the buildings on their property.

What happened

Mr and Mrs B made a claim under their home insurance policy, which is underwritten by NFU, after a friend's vehicle accidentally collided with one of their buildings, causing damage.

NFU accepted the claim but said it would only settle the claim proportionally because the declared rebuild cost of the building was too low, meaning Mr and Mrs B were underinsured.

Mr and Mrs B are unhappy with the claim decision. They say the rebuild costs for all the buildings on their property were set by NFU's agent when they took out their policy in 2018. Mr and Mrs B say it's unfair for NFU to reduce the claim settlement because their agent set the rebuild costs too low.

NFU says its agents do not provide advice or guidance on the rebuild costs for buildings. It has provided a statement from the agent denying that any such advice was given and confirming all figures were set by Mr and Mrs B. It also says the policy has renewed multiple times and that Mr and Mrs B were responsible for ensuring the sums insured remained adequate.

Our investigator considered the complaint and thought Mr and Mrs B's complaint should be upheld. He said he was persuaded from Mr and Mrs B's testimony, and by the timing of amendments made to the rebuild costs, that the agent most likely gave advice about the rebuild costs to be set. Because of this, he said it would be unfair for NFU to reduce the claim settlement. He said NFU should settle the claim in full and pay £500 compensation for the distress and inconvenience it had caused Mr and Mrs B.

NFU didn't accept our investigator's findings. So, as no agreement could be reached, the complaint was passed to me to decide.

I was minded to reach the same overall outcome as our investigator. But I also commented on some elements of the complaint that he hadn't. So, I issued a provisional decision to give the parties the opportunity to respond, before I reached my final decision. Here's what I said:

“What I've provisionally 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.

This complaint essentially boils down to whose recollections and testimony, in regard to the setting of the rebuild cost estimates during the sale in 2018, or during further reviews, I'm most persuaded by.

If I'm persuaded that the rebuild cost estimates were provided by Mr and Mrs B without advice from NFU's agent, then I'd likely decide it was fair for NFU to limit the claim settlement due to the declared rebuild cost being lower than it ought to have been.

However, if I'm persuaded that the rebuild cost estimates were most likely set by NFU's agent, then I don't think it would be fair or reasonable for NFU to rely on its own poor advice/actions to limit the claim settlement.

In situations like this, where the evidence is incomplete or contradictory, I'll make my decision on the balance of probabilities. That is, what do I consider more likely than not happened, based on the information which is available.

Having carefully considered all the available evidence and testimony, I'm more persuaded by Mr and Mrs B's version of events. I'll explain why.

Mr and Mrs B say they understood the purpose of NFU's agent's visit in March 2018 was to inspect the buildings. They say they walked the agent around the property, and he took notes of the sizes and materials used for each of the buildings. They say valuations for the building weren't discussed during this visit and at no time were they advised they'd need to seek a professional valuation. They say when they received their policy information following this visit, the outbuildings had all been separately noted with increased valuations added by the agent. They didn't challenge the valuations of the buildings as they assumed they had been set by NFU's agent and represented the accurate rebuild costs.

NFU says the purpose of the agent's visit was to review cover on a separate commercial policy Mr and Mrs B were taking, not to review or advise on the rebuild cost of the domestic buildings. NFU says the agent is not qualified to do so and has highlighted that the paperwork sent to Mr and Mrs B following the review specifically explained that the visit did not include any professional valuations. Instead, it highlighted that a professional valuation service could be provided separately if required. NFU says this shows the agent would not have offered a professional valuation on the advised commercial policy sale, and so supports that he most likely would not have done so on the non-advised, domestic policy sale either.

I've also seen comments provided directly by the agent which explain:

"To be clear I am not professionally qualified to assess the rebuilding values for properties. It is the insured's responsibility to come up with the sums insured they require. I tell our customers that we can arrange a valuation to prepared by an independent surveyor and talk through the implications of underinsurance but go no further than that."

The information NFU has provided shows that its agent is not supposed to provide any advice or guidance on the rebuild costs. But that on its own doesn't persuade me that the agent didn't do so in this case.

I say this for several reasons. Firstly, Mr and Mrs B have been consistent in their testimony throughout that the agent set the rebuild costs, and that this was in line with their expectations of the purpose of the visit – which is supported by the call recordings I've heard. In one of the calls, Mrs B makes it clear that she understood the agent coming out would help to ensure the rebuild estimates were accurate, and this assumption wasn't corrected.

Prior to the visit, Mr and Mrs B had tentatively estimated that the rebuild cost of their home was around £200k, the annex building £30k and the remaining outbuildings combined 30k. But following the agent's visit, new paperwork was sent out which separated and named all the separate outbuildings and included significantly increased rebuild estimates for each. I don't think it's likely that Mr and Mrs B would have chosen to do this without advice or guidance from the agent, and I note that NFU hasn't been able to evidence that these amendments were made at Mr and Mrs B's request either.

I appreciate the agent has provided his own statement which contradicts this. His testimony is that there are no notes on their systems to indicate how the changes came to be and that he doesn't recall discussing them with Mr and Mrs B, but he says the changes would have been initiated by Mr and Mrs B. In my view, this is more of a statement about what the agent thinks would have happened, rather than a confident statement about what he recalls happening. So, I don't find it particularly persuasive. And I'm also aware of some incorrect information within the remainder of the agent's statement, which leads me to conclude that his recollections are likely not as accurate as Mr and Mrs B's. I'll explain.

In the agent's statement, he says that in his post-accident visit in 2022, he noticed Mr and Mrs B had added solar panels to the building which had suffered damage. He says Mr and Mrs B decided to increase the rebuild cost estimate of the building to £100,000 during the August 2022 visit, to reflect this.

However, Mr and Mrs B say the solar panels were in place from the point they bought the property, which contradicts the agent's recollections and testimony around his review visits in 2018, 2020, 2021 and the post-accident visit in 2022. And Mr and Mrs B have provided supporting evidence to demonstrate the solar panels were indeed there the whole time. Mr and Mrs B also deny that they chose the increased figure of £100,000 in August 2022. They say this amount was set by NFU's agent and so they feel this further demonstrates that NFU and its agent are in control of the valuation process.

In weighing up what was likely said during these meetings, I'm mindful that NFU's agent likely carries out scores of insurance reviews, or more, each year and so accurately remembering everything which might have been discussed at meetings several years ago, would likely be extremely difficult. And while it would also be difficult for Mr and Mrs B, they would only participate in one annual review, which would likely make it easier to remember specific details.

NFU has argued that the agent's comments could simply indicate that he didn't notice the solar panels prior to 2022, rather than meaning they weren't there. But Mr and Mrs B have explained that the solar panels would have been visible on all the agent's visits. And that during the visit in 2018, they also went inside the building where the meters for the solar panels were. They say it wouldn't be possible for the agent to have failed to notice the solar panels during the visits prior to 2022. Again, I find Mr and Mrs B's testimony here to be credible and persuasive.

I also think the language used by the agent in his statement suggests that wasn't his meaning. Particularly as he then suggests that Mr and Mrs B decided themselves to increase the rebuild estimate of the building to account for the new solar panels. But it wouldn't make sense for Mr and Mrs B to do this willingly, or without first arguing about the fact that the solar panels had been in situ the entire time, which they had been. And the agent's comments make no reference to such an argument or discussion having happened. He simply suggests that he noticed newly installed solar panels and that Mr and Mrs B requested to increase the rebuild cost estimate to £100k to account for these – which I don't think is likely in the circumstances.

So given there are, what I consider to be, inconsistencies in the agent's recollection of visits and discussions, and given Mr and Mrs B have been consistent in their testimony throughout their claim and complaint, I think it's reasonable to place more weight on Mr and Mrs B's testimony and recollections than the agent's.

In summary, I think it's clear from the calls Mrs B had with NFU that she understood the agent would help with setting accurate rebuild costs. And I think the fact that NFU itself issued a restructured policy, with increased rebuild estimates for all the buildings, a few days after the site visits, would have supported Mr and Mrs B's understanding that NFU was supporting them to set the rebuild costs. Given this, and the absence of contemporaneous evidence to demonstrate that Mr and Mrs B provided NFU with these new figures following the 2018 site visit, on balance, I'm persuaded by their testimony that the rebuild estimates were more likely set by NFU's agent.

NFU has also highlighted that several policy renewals took place between March 2018 and the incident and that these would have highlighted to Mr and Mrs B that it was their responsibility to check the rebuild values on their policy were adequate.

I've thought carefully about this. But, as explained, I'm persuaded that Mr and Mrs B reasonably understood that NFU was responsible for setting these figures as a result of the original insurance review in 2018. And I can also see that further insurance reviews took place with the same agent during 2020 and 2021. And that the rebuild cost estimates increased each policy year. So, in these circumstances, I'm persuaded it was Mr and Mrs B's genuine, and reasonable, understanding that any issues with the rebuild costs declared were being picked up on and remedied by NFU or its agent.

Taking all of the above into account, I'm persuaded that Mr and Mrs B ended up being underinsured as a result of something NFU, via its agent, on balance did wrong. In these circumstances I don't consider that it would be fair or reasonable to allow NFU to limit the claim settlement. So, I think NFU should settle the claim for damage to the building in question in full. And I think any claim settlement needs to be based on the costs to carry out the required remedial works now, rather than being based on the estimated costs drawn up by the loss adjuster in January 2023. This is because the cost of carrying out those works will likely have increased in that time.

Mr and Mrs B would also like NFU to cover the costs they incurred in appointing a solicitor to help them progress their claim and to pursue the third-party motor insurer, when in their view, NFU wasn't acting as it should have been by pursuing the third-party motor insurer for a contribution.

As the party settling the claim, it's ultimately up to NFU whether or not it seeks to obtain a recovery or contribution from the motor insurer. And while I appreciate Mr and Mrs B felt they needed support to get a fair outcome on their claim, they could have made a complaint to NFU at that stage and pursued it through the Financial Ombudsman Service free of charge, as they later did, rather than incurring significant costs for a solicitor. In these circumstances, I don't consider it would be fair for me to conclude that Mr and Mrs B were forced to appoint solicitors solely as a result of NFU's failings. And because of this, I don't think it would be fair to direct NFU to reimburse Mr and Mrs B's legal costs under this complaint.

That said, I can see that Mr and Mrs B's policy includes an element of legal expenses cover. Should they wish to explore whether there is scope to recover part of their legal costs through this, they may want to engage with the underwriter of this cover about the possibility of making a claim. But that's a separate issue to the one I'm deciding in this case.

Mr and Mrs B have also suggested they'd like NFU to provide up to date and accurate valuations for all the buildings on their property, to avoid the risk of being underinsured again. But the actual responsibility for setting the rebuild valuations rests with Mr and Mrs B, unless they wish to pay NFU for a professional valuation. So, I'll not be directing NFU to do this.

Finally, Mr and Mrs B have highlighted the distress and inconvenience they've experienced as a result of NFU's handling of the claim, and the reduced offer of settlement it made. I agree this would have been avoidably stressful, and I sympathise. To put things right, I think NFU should pay Mr and Mrs B a total of £500 to compensate them for the impact of its errors."

I asked both sides to provide any further comments or evidence they wanted me to consider, before I reached my final decision.

NFU responded to explain that while it disagreed with some of my rationale and conclusions, it had decided to accept my provisional decision.

Mr and Mrs B also confirmed they accept my provisional decision.

As both sides have provided their responses, I'm moving forward with my 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.

Both sides have confirmed they accept the conclusions I reached in my provisional decision. So, in the absence of any new evidence or arguments to consider, my decision remains the same as outlined in my provisional decision, for the same reasons.

My final decision

For the reasons I've explained above, and in my provisional decision, I uphold Mr and Mrs B's complaint in part.

The National Farmers' Union Mutual Insurance Society Limited must:

- Settle Mr and Mrs B's claim for impact damage to their building with no deduction for underinsurance.
- Pay Mr and Mrs B £500 compensation for the distress and inconvenience it has caused them.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs B to accept or reject my decision before 30 September 2024.

Adam Golding
Ombudsman