

## **The complaint**

Mr D and Mr D complain that Saga Services Limited (Saga) mis-sold a home insurance policy and that an exclusion clause, wasn't made clear.

## **What happened**

Mr D and Mr D's property had a leak. They made a claim against their home insurance policy for the damage caused. Saga considered the claim and declined it due to the policy endorsement, which was mentioned at the point of sale. The endorsement said that there was no cover for escape of water claims.

Mr D and Mr D said that they firmly believed that they were covered for an escape of water. And that Saga by declining the claim (and during the sale process) had breached a number of regulatory requirements. So, they raised a complaint.

In its final response, Saga maintained its position that there was no cover for any escape of water claims. It also said that there were some administrative errors made and for those errors, offered compensation of £250 for the trouble and upset caused. Mr D and Mr D were given their referral rights and referred a complaint to our service.

One of our investigators considered the complaint and didn't think it should be upheld. He said Saga did enough to make Mr D and Mr D, reasonably aware that their policy was subject to an exclusion. The exclusion itself was clearly worded in the accompanying insurance documents. And the compensation paid for the administrative errors was fair. So, there wasn't anything further that he could reasonably ask Saga to do.

Saga accepted the view, Mr D and Mr D did not. They said the endorsement wasn't clear and was ambiguous. They said that the sales phone call with Saga, heavily influenced their decision to buy the policy, as it had been verbally agreed with Saga that the property would be covered under the escape of water peril. They said that during the call the advisor was told that the property would be unoccupied and that they required escape of water cover. And at no time did the advisor state that Saga was unable to provide a policy that didn't meet their requirements. They believed that there were several regulatory requirements that had been breached. So, they asked for a decision from an ombudsman.

## **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 won't uphold this complaint, for much the same reasons as our investigator, which I understand is likely to be a disappointment to Mr D and Mr D. But I hope my findings go some way in explaining why I've reached this decision.

I have reviewed all the comments and evidence presented by both parties. And in particular the policy terms, conditions, and endorsements. I have also considered the sales calls that were provided.

Having reviewed the evidence, I think the main issue of this complaint is whether Saga mis-sold the policy during its sale. And whether Saga provided enough information for Mr D and Mr D to make an informed choice.

Mr D and Mr D purchased the policy over the phone. I have listened to both sales call recordings. I think the second sales call is the most relevant, as the first effectively takes Mr D through several security questions, before passing him through to the second call.

I have summarised the second call as below:

- Personal details were confirmed.
- Date of when the insurance policy was to start was confirmed.
- Agent clarifies that the insurance was for a property that wasn't Mr D and Mr D's main residence.
- Agent states that she doesn't have any details of the previous policy and she will be treating this policy as a new quotation. As Mr D had said that he wanted the same terms as the previous policy of insurance.
- Agent again confirms that the property isn't a main residence.
- Agent then goes through the construction of the property.
- Agent confirms that the property will be unoccupied for more than 60 days.
- Questions were asked about the date when the property became unoccupied.
- Mr D said that property will be checked weekly by a family member.
- Legal cover was explained, and Mr D wanted that included.
- Agent explained that home emergency and accidental damage wouldn't be included as the property was unoccupied.
- Agent advises that cover is limited to FLEA (fire, smoke, lightening and aircraft impact) unless there is a specific condition authorised by the underwriter. And she wouldn't be able to find this out until the quote was generated.
- Agent goes through contents cover.
- The price of the cover is given.
- Agent goes through the excesses that are payable on a claim and does mention escape of water at £400.
- Agent then goes through the underwriter's endorsement. She reads out the endorsement and stipulates that cover will be for FLEA only.
- Agent then tells Mr D that: '*a full explanation of the cover will be provided to you*'. In the documents that would be sent.
- Agent goes through the cancellation information.
- Call ends.

From the call recording, I think that Saga provided clear, fair, not misleading and unambiguous information. It confirmed with Mr D and Mr D that the property was unoccupied and advised that the cover would be limited to FLEA on at least two occasions, during the call. The agent also read out in full, the endorsement to the policy. And advised that a full explanation of the cover will be provided to Mr D and Mr D, as well as going through the cancellation procedure, before the call ends.

I have reviewed the policy schedule and I can see that it clearly states that Mr D and Mr D should read the policy booklet to ensure that the cover meets their needs. So, this would have been what we call a non-advised sale, which means that Saga would not be advising or recommending that they buy the policy. And the onus is on Mr D and Mr D to ensure that the policy was suitable for their needs.

The endorsement itself is not an unusual or uncommon exclusion. And is one that is usually applied to policies, where properties are unoccupied. Saga's responsibility here would've been to highlight any significant or unusual terms to Mr D and Mr D. But as I don't think the endorsement was unusual or significant, I don't think Saga did anything wrong here.

Additionally, I would've expected that if Mr D and Mr D were unsure about any aspect of the policy, for them to have, either raised this with the agent during the sales call, or have contacted Saga for clarification. But I haven't been provided with any evidence that they did this. I understand that Mr D and Mr D said that they raised the issue of whether an escape of water was covered. But this wasn't mentioned at all, during the sales call.

I accept that the agent mentioned excesses that were payable in the event of a claim. And one of those excesses that she mentioned related to an escape of water claim. But she then mentioned the endorsement on the policy. She also read out the endorsement in full. Consequently, I can't agree that this was misleading, given that the agent outlined and read in full, the endorsement attached to the policy. In addition, I note that at no point during the call did the agent mention that an escape of water was actually covered.

I'm aware that Mr D and Mr D were sent insurance documents following the call. Again, I haven't been provided with any evidence to show that they didn't understand that cover was only limited to FLEA. And I think this would've been something that would've been raised, if there was anything they didn't comprehend.

I've next considered the insurance documents and having reviewed them I can see that they included the relevant information, about the endorsement. And I can't agree that it was ambiguous or unclear. So, I'll explain why.

The covering letter states: *'Please take a look at the Schedule and policy book - they have all the details about your cover. There are also some particular endorsements in the insurance statement that you need to check.'*

Also, page two of the statement of insurance provides the relevant endorsement. Further, in the insurance product information document (IPID), it also states: *'Unless agreed by us, cover for theft, escape of water, malicious damage or vandalism is excluded if your home is unoccupied for more than 60 days in a row'.*

I think the insurance documents are clear and again clarified that a claim for escape of water was not covered, where the property is unoccupied for 60 days or more. And as Mr D and Mr D explained that the property wouldn't be occupied, then I think it's clear that an escape of water claim wouldn't be covered.

Taking everything into account, I don't think Saga misled Mr D and Mr D, either during the sales call or from the insurance documents that it sent. I'm satisfied that it gave Mr D and Mr D enough information for them to make an informed decision, as well as highlighting the endorsement included in the policy. Consequently, although I understand the disappointment this decision is likely to bring to Mr D and Mr D, I can't reasonably ask Saga to do anything more here.

**My final decision**

For the reasons given, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D and Mr D to accept or reject my decision before 11 October 2023.

Ayisha Savage  
**Ombudsman**