

The complaint

Mr W complains that The National Farmers' Union Mutual Insurance Society Limited ("NFU") has unfairly declined claims under his home and lifestyle insurance policy related to damage and theft from his property.

What happened

The background of this complaint is well known between parties, so I've summarised events.

Mr W owns Property A and Property B. Mr W said around May 2022 Property A was vandalised and damaged by fraudulent agents acting as debt collectors.

Mr W says Property A was later illegally repossessed by a third party. This individual had alleged outstanding monies going back to 2014.

Mr W says that he was unable to live at Property A due to the third party's illegal possession of the property. Mr W says this was due to the production of a forged Court order or at very least, one that wasn't properly legally obtained.

Due to the circumstances, Mr W says he and his family moved into Property B, which had previously been tenanted and bringing in a rental income.

Mr W made several separate claims under his home and lifestyle insurance policy regarding what had happened.

The first was under his legal expenses insurance ("LEI") to claim for trespass which was considered by a separate insurer – Company D. Company D said Mr W did not have a valid LEI claim as any claim for trespass was without reasonable prospects of success due to the Court order. This matter will not form part of this decision as it concerns another insurer that isn't NFU.

Mr W also made claims under the property aspect of his policy, which was provided by NFU. This related to the alleged looting of Property A, criminal damage and stolen possessions. Mr W also sought to claim for alternative accommodation ("AA") costs for Property B as he was living there and now not receiving a rental income.

NFU said a claim for theft and vandalism had been considered during what Mr W had classed as illegal occupation and trespass of his property facilitated by a forced or defective Writ of Possession ("Writ"). It said the second claim was for squatting and damage/theft caused by employees of the company that were employed to maintain the security of Mr W's property.

NFU declined both property claims Mr W was seeking to make as it said both would be subject to an exclusion related to items seized or confiscated by any legal authority. And it said the third party's action to possess the home was valid and supported by a valid Court order. It said if Mr W could successfully challenge the seizure of the property (the Court order by proving the court order was a forgery it would reconsider this. And it said it was not for NFU to determine if a document is forged or not – that this fell to the police and fraud teams involved.

NFU said on both property claims – its legal opinion reflected that the Court of Appeal had considered the Writ of Possession to be properly obtained. And that there was an exclusion

in place for items seized or confiscated by any legal authority. It also said it did not have liability due to the third party's apparent legal possession of the property – and the appeal of that would need to go through the courts.

Following a complaint, in March 2023 NFU issued a final response letter regarding the property damage claims. It gave a timeline of events, saying it had handled the matters in a timely manner, never gave Mr W a false impression that the claim was accepted, and said there was insufficient evidence to support the Writ was a forgery. And again, it said it would reconsider this if the police or a fraud team determined it was.

NFU concluded the actions carried out by the third party were legal due to the Writ. And while Mr W had said the squatting and looting of the property had no bearing on the Court order in question, NFU disagreed, saying the order was for the possession of the property, so even if it was uninhabitable in line with the policy terms it would not pay AA costs as Mr W simply couldn't live there due to the order.

The complaint came to this Service. Mr W made clear he believed the claim had been handled poorly, including poor communication, the claim had been previously accepted, the Writ was false or a forgery, and he was seeking AA under the policy.

Our Investigator looked into what happened and didn't uphold the complaint, saying the circumstances of Mr W's claim did not amount to any of the insured perils listed in the policy and that NFU had declined it fairly. And the AA would only be provided in the event of an insured peril. So NFU had fairly concluded there was no cover for it to provide.

She also said NFU's decision to rely on the information it had (including the Court order) was reasonable – as nothing had been proven to the contrary. She said if any police investigations concluded any of the Court documentation or relevant evidence relied upon had been falsified or was not genuine, she would expect NFU to look again as it had said. But to date, no such successful challenge of the Court order had taken place. NFU had handled the claim within a reasonable timeframe, communicated with him regularly and it had not indicated the claim was ever accepted.

Mr W disagreed saying:

- The Writ was evidently not valid or legal based on the legal opinions he'd obtained. And even if it was genuine, it would not give the occupants the right to vandalise and steal his belongings. NFU had acted negligently by communicating and agreeing with the individual who had forged the Writ.
- The robbery and vandalism claim was separate to the illegal possession of his home committed by different individuals. And they had moved from Property A to Property B entirely due to the level of vandalism within it after regaining possession in November 2022.
- NFU had declined the claim entirely due to the misinformation provided by the criminal suspects. And the police were investigating individuals – but it would be unfair to wait many years for conviction in the criminal courts to reconsider this matter. The looting and vandalism suspects are employed by the fraud suspects – but Mr W said it was not clear if the fraud suspects had directed them to loot and vandalise their home. NFU and this Service had been mis-led by fraud suspects.

This didn't change the Investigator's mind. Since the Investigator's view, Mr W has submitted extensive submissions. In summary, these reiterate his belief that NFU has acted negligently and should pay his AA costs, and that he believes he has evidence to show the Court order relied upon was a forgery. He submitted comments from a legal practitioner who commented on the Writ and put forward his own submissions.

So, the matter has been passed 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.

When considering what's fair and reasonable in the circumstances I need to take into account relevant law and regulations, regulators' rules, guidance and standards, codes of practice and, where appropriate, what I consider to be good industry practice at the time.

Both NFU and Mr W's submissions to this Service span many pages. I won't be responding in similar detail. This is not intended as a discourtesy, but a reflection of the informal nature of this Service.

My role is to focus on what I consider the crux of the complaint to be which means I will only comment on those things I consider relevant to the decision I need to make. This means I won't comment on everything Mr W and NFU have said but I can confirm I have read and considered everything said by both parties.

So, I'll begin by looking at the policy terms. This covers Mr W for certain perils such as fire, flood, water leaks and others.

One of the insured perils under the policy is theft or attempted theft. Under the exclusions for the theft peril, it states it won't cover theft by deception unless someone has entered your home by deception.

Mr W has indicated his property has been entered by deception so this theft peril should respond to his claim.

The policy also includes an insured peril for malicious people and vandals - which Mr W has indicated should apply as his property was vandalised.

In response to both of these claims, NFU explained to Mr W that:

- A claim for theft by deception would require evidence to support the individuals gained access by deception. And it said this is why it needed evidence to show the Court order for repossession was not valid.
- A claim for malicious damage would require evidence to support any such damage was caused maliciously. And it requested evidence of this from Mr W.
- For both types of claims, AA would only be considered if a claim was accepted.

I think this was set out clearly by NFU, particularly in its communication of February 2023.

NFU has provided legal opinion that supports that the Court of Appeal recognised the validity of the previous Writ. And it said based on the evidence provided it was satisfied the actions of the removal company that was hired to remove possessions of Mr W's from his home was done so properly and not maliciously.

Mr W has challenged the legality of the Writ repeatedly, and provided legal advice from a practitioner that has questioned how the Writ was obtained. However, while I take on board their views, I'm satisfied the Court of Appeal has recognised the Writ as valid. And as a result, I place more weight on NFU's position that it was valid.

Mr W has also made repeated comments about the individuals who obtained the Writ and the potential for police or criminal action against them in the future. I recognise NFU has said explicitly it will reconsider the matter if any such document turns out to be fraudulent – as I'd expect it to. But I don't think it would be reasonable in this case to expect NFU to overlook the findings of the Court of Appeal in determining the legality of the Writ.

So I'm satisfied that NFU has fairly concluded that the property in this claim was not taken through theft by deception in light of the available evidence that supports the validity of the

Writ in question.

Furthermore, I'm satisfied the repossession of these items was obtained in line with the Writ, and I'm persuaded NFU's decision that the actions of any such third party or agents amounts to malicious damage in the circumstances.

The policy also provides AA if a policyholder cannot stay in their home due to the damage covered under their policy.

Here, no such peril or damage has been covered. So, I'm satisfied NFU's decline to cover AA costs is fair and reasonable.

In regards to the claim handling NFU will be aware of its requirements to handle a claim promptly and fairly. I've reviewed the history of the claim and I'm satisfied there's no periods of significant delay. I say this as NFU was quick to give Mr W an answer to his claim, and the ongoing correspondence has largely been one sided on part of Mr W. Mr W has also alluded to NFU previously indicating the claim was covered. Within my review I haven't seen anything to support this. So, these aren't matters that have changed my mind or lead me to uphold this complaint.

There has been further discussion of exclusions by NFU, but given I'm satisfied there's no insured peril in play, these issues now fall away.

My final decision

For the above reasons, I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 6 December 2023.

Jack Baldry
Ombudsman