

The complaint

Mr M complains about the cash settlement offered by Society of Lloyd's following a claim on his commercial buildings insurance policy.

What happened

Mr M owns the freehold of a property which is converted into two flats. He uses the upper floor flat as a holiday home. The ground floor flat is owned on a long term lease by someone else, who also uses their flat as a holiday home.

As the freeholder, Mr M has insurance to cover the whole building with Society of Lloyd's.

In November 2019 the leaseholder of the downstairs flat discovered extensive water damage to his home caused by a pipe that had been leaking. Mr M made a claim on the policy to cover the cost of repairs.

In January 2020 Society of Lloyd's appointed a company to carry out drying out works. After some initial stripping out work, the contractor installed dryers and dehumidifiers in March 2020. After they told Society of Lloyd's that the drying out had been completed, repair works were then carried out.

On completion of the work, Mr M's representative provided a scope of works to Society of Lloyd's' loss adjusters and asked it to pay the costs. Discussions followed about making a cash settlement. Society of Lloyd's said additional redecorating and refurbishment work had been done and not all of it was related to the damage caused by the escape of water. It appointed a surveyor to review the works and after discussions made a final offer of £105,000.

Mr M complained that this was far below the cost of the work carried out but Society of Lloyd's said the offer was fair and wouldn't be increased.

When Mr M referred the complaint to this Service, our investigator said Society of Lloyd's should pay for the replacement of electrical fittings and radiators, and the installation of a solid floor, in addition to the sum of £105,000 offered.

Society of Lloyd's doesn't agree that paying the full cost of installing a solid floor would be fair. It says:

- the investigator said it was recommended in a report that the floor be replaced, but the report only recommended that this be considered and said if retained, the floors should be treated against damp;
- some of the damage relating to the floor was not caused by the escape of water;
- the independent surveyors it instructed recommended a contribution of £4,000 towards the cost of the floor, which it agreed to;
- it wouldn't be reasonable to have to pay a further sum of around £26,000.

Mr M's representative also made further comments following the investigator's view, saying all of the claim is genuine and should be included, and in particular:

- the pre-existing damp in the property only affected a small part of the building;
- the contractors appointed by Society of Lloyd's to carry out the initial stripping out works and drying didn't remove all of the ceilings and flooring and this resulted in damp under the floor being trapped;
- the sanitaryware is a genuine part of the claim and should be included;
- if the concrete floor is included then the studwork walls should be too.

The investigator considered all the additional points but didn't change his view.

As no agreement has been reached, the complaint has been passed to me to decide.

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.

The relevant industry rules and guidance say insurers must deal with claims promptly and fairly; provide reasonable guidance to help a policyholder make a claim and appropriate information on its progress; and not unreasonably reject a claim. They should settle claims promptly once settlement terms are agreed.

The policy provides cover for this type of claim and Society of Lloyd's is not saying the claim should not be covered. But it says Mr M made it difficult for it to assess the work because it was carried out without its knowledge or consent, and the offer of a cash settlement it put forward is reasonable on the basis of the information it has. So I need to decide whether that offer is reasonable or should be increased.

When considering this, I've taken into account that it's for the policyholder to prove their claim. So the onus is on Mr M to show that what he's claiming for is work needed as a result of the escape of water, not for other reasons, and that the amounts are reasonable.

The investigator's view was that most of the offer was fair but he asked Society of Lloyd's to increase it by including two additional items. I've considered all the evidence carefully and I agree this is fair.

Mr M says the property wasn't dried out properly by Society of Lloyd's contractor. But the work went ahead without this being pursued further at the time. So Society of Lloyd's wasn't able to consider this further. If the problem were that obvious I'd have expected Mr M to deal with that first rather than pressing ahead with the works.

I agree with Society of Lloyd's that its position was made more difficult because all the work was carried out without its involvement. So it wasn't able to approve the work in advance or check what was being done. It appointed loss adjusters to deal with the claim and an independent surveyor to review the work, and relied on their advice when making its offer. That was a reasonable approach to take.

The surveyor carried out a site visit and spoke to Mr M's representative as well as reviewing all of the available information before providing a detailed report. A spreadsheet was completed with all of the items claimed for and comments added with recommendations as to how much Society of Lloyd's should pay. Looking at things in the round, I think overall it was reasonable for Society of Lloyd's to offer a cash sum in line with the recommendations given to it, subject to the two additional items recommended by the investigator.

There isn't any dispute that the property suffered with damp problems due to issues not related to the escape of water. There is a dispute about the extent of that damp. But I'm

satisfied from the evidence there were structural issues, as confirmed in a report Mr M obtained, including the lack of sub-floor ventilation and high ground levels.

The loss adjuster said costs relating to stud walls hadn't been included because these hadn't been damaged by the water leak. They said the damage was due to ongoing damp at the property. As damp has been confirmed at the property I think it was reasonable not to include these.

I also agree it was reasonable not to include the cost of replacing all the sanitary ware; I don't think Mr M has shown that was all necessary as a result of the escape of water.

But I think the evidence does show that radiators and electrical fittings were removed, should have been reinstated, and were not. Mr M shouldn't have to cover the cost of that. So I agree it's fair for Society of Lloyd's to cover the cost of that.

With regard to the floor, I appreciate the report Mr M relies on didn't say the only option was to replace the old floor with a new concrete floor. But it did say this might be the more economical way to put things right.

Society of Lloyd's says not all of the flooring problems were related to the escape of water. But the evidence does show there were extensive problems with the floor. Even though other methods might have been possible, I don't think it was unreasonable for the floor to be replaced, to provide a solution that was likely to be more permanent and, on the information Mr M had at the time, likely to be cost effective.

The comment from the experts advising Society of Lloyd's was that new timber flooring would have cost £17,000 to £19,000. So the cost would have been considerably higher than £4,000.

While the cost of the concrete floor was higher, I can see why Mr M dealt with it in that way. Taking all of these circumstances into account, I think it would be fair for Society of Lloyd's to cover the cost of the floor.

Putting things right

For these reasons I think a fair way to resolve the complaint is for Society of Lloyd's to pay

- the cash sum of £105,000 offered;
- an additional sum of £26,614 for the floor; and
- subject to Mr M providing evidence of the amount, the cost of replacing the radiators and electrical fittings.

My final decision

I uphold the complaint and direct Society of Lloyd's to pay the compensation set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 18 December 2023.

Peter Whiteley
Ombudsman