

## The complaint

Ms B complains about the way Society of Lloyd's handled a claim under her legal expenses insurance policy.

## What happened

- Ms B's caravan was pitched at a holiday park under a long-term lease agreement. Following a dispute with the site owners, her caravan was removed. She says this was illegal and damage had been caused to both the caravan and the contents inside.
- Ms B holds a Static Holiday Home policy which has legal expenses insurance cover included. She made two claims; one for the damage caused to her caravan and contents, and one for the legal costs of pursuing the site owners. I'm only looking at the latter claim; for legal costs under the legal expenses insurance policy.
- Society of Lloyd's, through its claims handlers who I'll refer to as 'A', accepted the claim and appointed a panel firm of solicitors.
- On the information available, the solicitors were satisfied there was a valid claim with merits. They attempted to engage with the site owners and told Ms B to recover her caravan from the site owner's yard to avoid any further storage fees being applied.
- The site owners refused to co-operate. So the solicitors were unable to establish whether the correct notices had been served on Ms B, which is what the legal case will hinge on.
- The solicitors explained to Ms B about the risks of proceeding to court. They said that if the site owners can prove they served notice, Ms B would most likely lose and she could be ordered by the court to pay the site owner's legal costs.
- Whilst there is cover under the policy for both Ms B's legal costs and the site owner's legal costs, the solicitor said these would most likely exceed the £50,000 limit of indemnity, so Ms B would be liable for any costs in excess of that.
- Given the significant risks involved, A gave Ms B two options. She could either;
  1. go to court and Society of Lloyd's would pay the legal costs up to £50,000 with Ms B responsible for anything over and above this amount. Or,
  2. she could accept a bagatelle payment in full and final settlement of her claim which would bring an end to the insurance cover. The offer was initially £12,500, but later increased to £18,000 – which the solicitor's say is the market value of the caravan at the time of the offer taking into account the age and condition.
- Ms B was unhappy with the offer and the way A had handled the claim. She raised

the following complaint points:

- Society of Lloyd's won't cover the cost of recovering her caravan from the site owners.
  - the bagatelle offer is too low as it doesn't cover the cost of a new caravan, or the storage fees she's likely to be charged by the site owners.
  - she believes the case would win in court and the legal costs to pursue the claim have been exaggerated.
  - various concerns with the handling of the claim by both the solicitor and barrister, as she wasn't kept updated throughout and her instructions weren't followed.
- Society of Lloyds didn't uphold Ms B's complaint, so she brought it to our service. But our Investigator didn't think Society of Lloyd's had done anything wrong or unfair. As Ms B didn't agree, 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.

- Having reviewed the evidence available, I've reached the same outcome as our Investigator and for broadly the same reasons.
- Firstly, I must be clear that I can't comment on any complaint about the solicitor or barrister who have their own regulatory body and ombudsman service. If Ms B is unhappy with the day-to-day handling of her legal case, the conduct, actions, or advice of a legal professional, she'll need to raise this with them directly and escalate it to the relevant dispute resolution service.
- Looking at the terms and conditions of Ms B's legal expenses policy, I'm satisfied the cover available to her is limited to the legal costs of pursuing this action (which includes her costs, the other side's costs, and disbursements). There is no cover for the cost of recovering her caravan, and as she hasn't done so, she remains exposed to daily storage fees by the site owners which she'll be responsible for. I can see she's been told on multiple occasions to collect the caravan in order to mitigate her losses.
- A bagatelle payment is something an insurer may choose to offer instead of funding the legal costs of a claim. This may happen in situations where there is cover under the policy to pursue the claim to court but, for a specific reason, the insurer has chosen to settle the claim instead. In this case Society of Lloyd's wanted to avoid the risk of going to court and discovering that the site owners had served sufficient notice on Ms B after all, which would result in the case being lost. I'm satisfied this is a fair way to resolve matters and eliminates any risk to Ms B of being liable for costs.
- Ms B believes the claim will win in court, as she says she wasn't served sufficient notice. This may be the case, but given the site owners assertions that they did, it's reasonable for Society of Lloyd's to be cautious given the financial risk to Ms B. I appreciate Ms B says the costs have been exaggerated but I've seen no contradictory opinion on what the likely costs will be. So I can't fairly say that Society of Lloyd's should disregard these estimates.

- I appreciate Ms B says £18,000 is too low. But this is what the solicitors say is the maximum value of Ms B's claim and I haven't seen any contradictory legal opinion showing me otherwise. So I don't think it's unfair for Society of Lloyd's to rely on this advice. The difficulty here is that because Ms B hasn't recovered the caravan, the solicitors haven't been able to arrange an inspection to assess the level of damage involved.
- That said, the intention of a bagatelle payment isn't to enable Ms B to purchase a new caravan. As I've explained above, it's a cash settlement instead of pursuing the matter in court. Ms B may choose to use the money towards purchasing a new caravan, or she can recover her existing caravan and use the money towards the repairs. Alternatively, if she wants to continue her legal claim against the site owners, she can do so privately using the settlement money.
- Overall, I'm satisfied Society of Lloyd's have handled the claim fairly. It's given Ms B the option to carry on pursuing her claim under the policy but has made clear the risks involved in doing so. And it's given an alternative option to bring matters to a close which, based on the evidence presented, I'm persuaded is fair in the circumstances. Whilst I appreciate Ms B will incur costs of recovering the caravan and the storage fees, this isn't something her policy covers and I'm satisfied she's been told to go and collect it since 2019 to minimise the financial implications.

### **My final decision**

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 29 August 2023.

Sheryl Sibley  
**Ombudsman**