

## **The complaint**

Mr C has complained about what Society of Lloyd's trading as Lloyd's of London (SOL) has paid in settlement of his claim under his Barge insurance policies for damage to boats belonging to him.

Mr C's policies are underwritten by a syndicate at SOL and they have had various agents dealing with the matter on their behalf, but for the sake of ease I'll only refer to SOL in this decision.

## **What happened**

The background to this complaint started in 2016 and there has been a huge amount of communication between SOL and Mr C and the various experts involved. But I do not consider it necessary to set out everything that has happened in detail and have instead provided a summary.

It is not in dispute that in 2016 a boat belonging to a third party (which I'll refer to as A), which was also insured by SOL, collided with a houseboat belonging to Mr C (which I'll refer to as Y). This boat was moored alongside his two other houseboats (which I'll refer to as L and W). Mr C has said that the impact was severe and that this caused damage to Y and L and extensive damage to W.

SOL accept there was a collision, but they do not accept the damage to W was as severe as Mr C considers it to be. They made a payment of £70,000 to Mr C in full and final settlement of his claim under the three policies and refused to pay any more. Mr C asked us to consider his complaint about SOL.

One of our investigators did this and explained why she didn't think it should be upheld. This was because she wasn't persuaded there was sufficient evidence to show all the problems with W, which Mr C had suggested were due to the collision, were directly related to it. And, in view of this and the policy terms, she was satisfied that Lloyd's payment of £70,000 in full and final settlement was reasonable.

Mr C does not agree with the investigator's view and has asked for an ombudsman's decision. He's made several points in response to the view, but I have listed what I think are the key ones below:

1. Y and L have experienced ongoing issues since the collision, resulting in a loss of value due to persistent dampness, leaks and intricate piping problems with pipes that were damaged in the collision.
2. He was never given any advice on the best way to handle the claim, ie whether to claim as a third party against the policy covering the other boat or against his own policies.
3. SOL have provided a report that is most favourable to his case. This said the wooden structure on W had moved and twisted.

4. W was properly maintained and repaired constantly after the collision and it kept showing damage from the collision after each subsequent repair.
5. The boats were in outstanding condition prior to the collision and immediately after it they deteriorated rapidly, as they were never properly inspected and rebuilt. Surveys were carried out 11 months before and a few days before the collision and these showed W was in excellent condition and properly aligned.
6. The investigator not being persuaded that the collision is the sole cause of the damage is frustrating and simply incorrect.
7. At the time of the accident the tenant was happily living in W and was considering purchasing it. But within a week of the accident he began falling out of bed and the doors and windows stopped working properly.
8. He still wants SOL to pay him the policy limits of £450,000.

Mr C has listed numerous other things that he thinks SOL have done wrong and, while I haven't listed them all here, I've considered them.

### **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've decided not to uphold it for largely the same reason as our investigator. And I've explained why below.

When referring specifically to surveyor's reports or estimates I've used the first letter of the forename and surname of the person who provided the report or estimate, so that both parties will know whose report or estimate I am referring to, whilst allowing them to remain anonymous when this decision is published.

I think before I explain why I don't think Mr C's complaint should be upheld, it would be helpful for me to set out the cover under his policies and comment briefly on this.

At the time of the collision Mr C had three policies with SOL covering each of his boats against physical damage. But these policies exclude damage cause by wear and tear, amongst other things.

The policies each had a Total Value shown in the policy Schedule. The Total Value for Y was £26,000, for L £35,000 and for W £145,000.

The policy wording that applies to all three policies states the following:

#### **'COVER FOR THE VESSEL**

Subject to the Conditions Precedent, limitations and other terms of the Policy we shall cover you in respect of physical loss of or damage to the Vessel and other property described in the schedule caused by:

- (i) Accidents (including fire, explosion, collision, stranding, grounding and heavy weather)

**AMOUNT PAYABLE IN THE EVENT OF LOSS OF OR DAMAGE TO THE VESSEL DESCRIBED IN THE SCHEDULE**

## TOTAL LOSS

### CONSTRUCTIVE TOTAL LOSS

We shall pay the value of the Vessel or its Boat(s) or outboard(s) as noted in the Schedule if the Vessel or its Boat(s) or outboard(s)

- (i) is totally lost or destroyed;
- (ii) the cost of recovering and/or repairing the Vessel or its boat(s) or outboard(s) will exceed the value noted in the Schedule'

The policy wording doesn't actually state anywhere exactly what SOL will pay in other circumstances, for example where the cost of repairing the damage does not exceed the value noted in the Schedule. Plus, the words 'Sum Insured' are not actually mentioned in the Schedule. This states a 'Total Value' and then lists an amount for the 'Hull, Machinery, Equipment and Gear' and an amount for Contents.

However, on a reasonable interpretation, I think it is fair to say that the maximum amount SOL would have to pay on a single claim for each insured vessel is the 'Total Value' listed in the Schedule. So, under the terms of the policy for W the most I would expect SOL to pay would be £145,000. And I would not expect them to pay more than £26,000 for Y and £35,000 for L, ie a maximum of £206,000 under all three policies combined.

Having read the various survey reports provided I have no doubt that there was a significant collision between A and Y and that this in turn caused L and W to move significantly. And I don't think there is any doubt, bearing in mind the way W is constructed, that this caused the superstructure on W to move and its frame to become distorted. And I'm satisfied this impact caused damage to Y and L and significant damage to W.

However, I'm satisfied that the £70,000 paid by SOL under Mr C's policies is enough to cover the cost of any damage caused to his boats by the collision and any associated costs. I've set out my key reasons for thinking this below, as I do not consider it necessary to comment in great detail on the various survey reports on the incident giving rise to Mr C's claim and the damage it caused to his boats. But I do want to say that I understand Mr C's strength of feeling on the matter and that he feels W in particular has been severely damaged. And I do agree there is extensive damage to it. However, this doesn't mean I think what he has suggested it will cost to repair it is reasonable.

- All the survey reports I've seen, apart from the one provided through the solicitor appointed by SOL, are – in my opinion - objective and indicate a significant amount of damage to W. But none of them persuade me the cost of repairs needed and associated costs would be more than the £70,000 SOL have paid in full and final settlement.
- I find AM's report particularly persuasive. In his Executive Summary, whilst he concludes that there has been a very significant impact with structural consequences, he has said the racking (the action of rolling during the collision) damage to the wooden structure of W is limited, but has resulted in an isolated area of water ingress between the deckhead and bulkhead. In my opinion, this comment and others in his report do not suggest repairs anywhere near as extensive as Mr C has suggested are needed, ie those detailed in KD's estimate.
- The extent of the repairs set out as required in JW's second report to W's superstructure, which he has described as not major and which he thinks could be carried out at W's current birth, do not support the extent and cost of the repairs Mr C thinks are needed.

- Even CM's report, whilst suggesting more extensive repairs are required, does not to me suggest these would cost more than the £70,000 already paid by SOL.

In respect of the points raised by Mr C in response to our investigator's view I make the following comments:

1. I appreciate there have been issues with all three boats since 2016. However, I consider some of these, particularly those with W, are due to general wear and tear. And I am satisfied £70,000 is enough to repair the damage caused by the collision.
2. Mr C has also made a claim as a third party against the policy covering A. And additional payments have been made to him under this policy. But this does not alter my view that what SOL have paid under his own policies is fair and reasonable.
3. I agree AM's report, which is the one I am assuming Mr C is referring to, is favourable to his case. But I do not think it supports a payment of more than £70,000 in full and final settlement of his claim being necessary.
4. I appreciate work has been carried out on W since the collision and then further work has been needed, but I think much of this can be classed as general maintenance. And, as I've said, I'm satisfied the amount SOL have paid is enough to cover the repairs needed to W, L and Y as a result of the collision.
5. I would not say – based on the evidence I have seen – that the boats were all in outstanding condition prior to the collision. It looks like they were all in good condition, but just as a result of their age, they needed normal ongoing maintenance.
6. For the reasons I've explained, I do not consider the investigator's opinion on the extent of the damage was wrong.
7. I accept that W was not sitting straight after the collision and this caused problems for the tenant, but this does not alter my view that £70,000 is enough to repair the damage caused by the collision.
8. The policy limits combined do not add up to £450,000; they add up to £206,000. But I think £70,000 is all SOL needs to pay in settlement of Mr C's claim.

In summary, I am not persuaded the evidence Mr C has provided shows that SOL needs to pay anything more in settlement of his claim. Therefore, I do not consider it is appropriate for me to uphold his complaint and make SOL do this.

### **My final decision**

For the reasons set out above, I do not uphold Mr C's complaint about Society of Lloyd's trading as Lloyd's of London.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 12 September 2023.

Robert Short  
**Ombudsman**