

The complaint

Mrs S complains Society of Lloyd's ("SOL") has unfairly declined a claim she's made on a residential let insurance policy.

What happened

The background to this complaint is well known to the parties so I have provided a summary of what happened:

- Mrs S owns a property which is let to tenants and is covered by a buildings insurance policy underwritten by SOL.
- After an escape of water was discovered in the kitchen at the property, Mrs S arranged a plumber to repair the leak and made a claim on the policy to resolve the damage.
- After investigation, the claim was declined as SOL said the cause of the damage was rising damp which happened gradually, and this wasn't covered by the policy.
- Mrs S complained to SOL about the declination and a number of other issues.
- SOL maintained its position on the claim and didn't agree the claim had been dealt with slowly or there was a lack of communication or dishonesty on the part of its agents.
- Mrs S brought the claim to this Service and our investigator didn't uphold it, so Mrs S asked an ombudsman to make a 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 a consumer wants to make a claim on a policy, the onus is on them to show the damage being claimed for is covered by the policy. Where an insurer seeks to rely on an exclusion to decline a claim, the onus is on them to show the exclusion applies.

When assessing this complaint, I'm likely to place significant evidential weight on expert opinions provided by professionals who have investigated and diagnosed the cause of the damage being claimed for. I'll also keep in mind what I consider to be fair and reasonable to both parties.

- The terms and conditions explain what is and isn't covered by the policy.
- In certain circumstances, water leaks *are* covered by the policy.
- But the policy includes an exclusion for "*...any cause which happens gradually*" and this is what SOL relied on to decline the claim.

- So, I've looked at the parties' explanations as to the cause of the damage to establish whether it was most likely it happened gradually.
- Mrs S says that a leak had occurred from the main feed to the kitchen sink and the resultant water had been soaking into the concrete for some time. This then travelled through the property causing damage to the ground floors and lower level walls.
- Her plumber also thought the leak had been happening for a long period of time.
- SOL appointed specialist water damage experts to investigate the cause. The report they produced is comprehensive and includes details of the tests undertaken – moisture mapping, nitrate testing and leak detection – and the results seen.
- The report concluded there were three separate sources of damp and these were a leak from the mains water pipe in the kitchen, failed shower seals from a shower cubicle and rising damp issues confirmed by a salts test.
- SOL concluded that the damage being claimed for was as a result of damp within the walls – which, by its nature happens gradually - caused by the condition or method of construction of the property without adequate damp proofing.
- While the parties don't agree exactly on the cause of the damage, there seems to be broad agreement the damage happened gradually, over a period of time.
- On balance, I find the water damage expert's report and conclusions reached following the testing to be more persuasive.
- Because of this, I'm satisfied SOL acted fairly when it relied on its expert's report and declined the claim under the exclusion for a cause that happens gradually as is the case with rising damp.
- I note SOL suggested to Mrs S she could provide an alternative expert opinion challenging its view on the cause. It also said it would reimburse the cost of this report if it changed the claim decision.
- But I haven't seen anything to suggest she decided to follow this suggestion and I've not been given any expert opinion that supports Mrs S's position that the claim should be covered.
- Having considered the timeline provided by SOL, I've not seen any significant gaps in progressing the claim and given the investigation required, and I've not seen anything which persuades me it took longer than was necessary.
- I also haven't seen enough to safely conclude the accusations of dishonesty on the part of SOL's agents have merit.
- In conclusion, I won't be asking SOL to do anymore

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 1 December 2021.

Paul Phillips
Ombudsman