

The complaint

Mr and Mrs T complain about the decision of Society of Lloyd's to decline part of their business interruption insurance claim made as a result of the COVID-19 pandemic.

What happened

The following is intended as a brief summary only. I have focussed on the issues I consider relevant to this complaint. References in this decision to Society of Lloyd's includes their underwriters and agents.

Mr and Mrs T run a holiday home business. In March 2020, they were forced to close this business as a result of the COVID-19 pandemic. They held two insurance policies with Society of Lloyd's, one relating to each of the properties they let. This complaint relates to a property I will refer to as "H" and the relevant policy for that property – albeit I understand the circumstances relating to each property and policy are largely similar.

Mr and Mrs T contacted Society of Lloyd's to claim for their lost income. Whilst Society of Lloyd's accepted that the policy covered the general circumstances of the claim, they said this would not be met in full as one of the people renting H was living in the property whilst working. Society of Lloyd's said that the policy did not apply to property let to workers.

Mr and Mrs T disagreed with this outcome and said that the policy documents did not include such a restriction. And that whilst the policy described the relevant premises as a "holiday home" this did not restrict the use of the premises in the way Society of Lloyd's suggested. Society of Lloyd's responded, saying that the property could only be let out for the purpose of providing accommodation for people on holiday and that, effectively, this was implicit. Society of Lloyd's also referred to a declaration on the website that Mr and Mrs T used to take out the policy in 2018, which made it clear the premises could not be let to workers.

Mr and Mrs T remained unhappy and brought their complaint to our Service. Our Investigator thought their complaint should be upheld. He was not satisfied that the policy made it clear that the property could not be let to workers, and that Society of Lloyd's had not shown that Mr and Mrs T had most likely seen the declaration on the website. He said Society of Lloyd's should consider the claim on the basis that the purpose of the booking did not prevent cover. And that if a settlement was due, interest should be added to this.

Society of Lloyd's did not agree. So, this complaint has been passed to me for 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.

Whether an insurance claim should be met or not is generally determined by comparing the circumstances of the claim to the contract of insurance. In this case, the contract of insurance is made up of a number of policy documents – the schedule, the policy wording, etc. I don't think this directly includes wording that appears on the website used to sell the

policy in the manner Society of Lloyd's suggests (though in some cases this will depend on the circumstances).

However, when interpreting a contract, it is necessary to consider what a reasonable person, with all the relevant background knowledge, would have considered the contract to mean at the time they entered the contract. As such, anything that would have been shown to someone at the time they took out the contract could be relevant when it came to interpreting its meaning.

The issue here however is what would have been shown to someone at the time the contract was entered, or before. Society of Lloyds has referred to some wording that appears on a relevant website now. But it hasn't been able to demonstrate that this wording would have been shown to someone at the time Mr and Mrs T's policy was taken out – either originally in 2018 or at renewal in 2019 (even had they viewed the website at the time of renewal).

So, whilst the wording on the website demonstrates that the insurer wanted to limit cover, this was not something other parties entering the contract would likely have been aware of. And so this website wording is not something that can be included in the background knowledge of a reasonable person.

We are then left considering how the contract would be interpreted without this wording. The policy provides cover in relation to premises that are used as a second home or as a commercially let holiday home. Holiday home itself is defined within the policy, but only in terms of its construction, etc. rather than in relation to whom the premises can be let. The term relevant to the claim effectively provides cover for loss of rentals pre-booked in advance resulting from access being restricted or denied due to disease.

Other than referring to the cover and the premises as relating to a "holiday home", there is nothing within the policy terms that means cover is not provided where the premises are "let to workers".

So, it would be left to the reasonable person to consider whether the use of "holiday home", given the other context of the policy, led to a limitation in cover relating to letting the property to people who were engaging in work in the area. And I am not persuaded that a court would determine this is the conclusion a reasonable person would come to.

It is clear that "holiday" accommodation is rented out to people for a wide range of purposes. Some of these will be vacations. Others will no-doubt be a mixture of purposes – and Mr and Mrs T have referenced a number of examples. But some accommodation is rented out for people who are working in the area for a period and this appears to be common practice in this industry. Indeed, it seems Society of Lloyd's itself recognises this practice is common.

So, a reasonable person with the relevant background knowledge would be aware that holiday accommodation is often rented out to people working in the area, and it with this understanding that they would interpret the policy. Given the policy did not include any restriction on the use of the premises for people working in the area, I consider they would most likely understand the policy to provide cover in the circumstances.

Taking all of this into account, I consider it would be fair and reasonable for Society of Lloyd's to meet Mr and Mrs T's claim based on the remaining terms of the policy.

Putting things right

Society of Lloyd's should reconsider Mr and Mrs T's claim on the basis that no restriction applies in relation to the reason the accommodation was booked.

If any settlement is due to Mr and Mrs T, interest should be added to this at a rate of 8% simple from a date two months after the claim was made (to allow a reasonable period for the claim to be assessed) up until the claim is paid.

My final decision

My final decision is that I uphold this complaint. Society of Lloyd's should put things right in the manner set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs T to accept or reject my decision before 21 October 2022.

Sam Thomas
Ombudsman