

## **The complaint**

Miss S has complained that Society of Lloyd's (SOL) unfairly refused to pay her claim under her horse policy.

References to SOL include all its agents.

## **What happened**

Miss S' vet made a claim to SOL on 10 September 2020 for vet costs in relation to a diagnosis of bone spavin which occurred to her horse. SOL decided that because Miss S had made a claim for a sprained ligament on 10 February 2020 to the previous underwriter of her policy, this claim was related to that ligament condition and it refused to consider it. The cover for this claim, the subject matter of this complaint, started on 28 February 2020.

SOL said in its final response letter of March 2021 that as the previous underwriter agreed to cover this as a continuation of the ligament claim that appeared to show the previous underwriter was of the view it was a continuation claim. It also said its policy didn't provide cover for the consequences of that have occurred as a result of a previous condition. A condition is only valid for any claim payment when it occurs as the direct result of an accident, injury, illness, or disease first occurring and first manifesting during the period of insurance.

Miss S and her vet said there was nothing to indicate when treating the horse for the ligament issue that this bone spavin was in existence. Further the horse had recovered from the ligament sprain and was 'sound' before developing the symptoms of the bone spavin.

SOL continued to refuse to deal with Miss S' claim so she brought her complaint to us. The investigator was of the view it should be upheld. SOL disagreed so Miss S' 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 done, I'm upholding this complaint. I'll now explain why.

It's irrelevant what any other or previous underwriter might have thought about Miss S' claim, as this policy and therefore this claim isn't underwritten by that underwriter. Further whatever that underwriter might have thought initially doesn't absolve the underwriter in this claim from doing coherent investigation of its own also. Not indeed does it show the previous underwriter had fully investigated the claim.

This policy in common with most other policies merely wishes to cover claims that happened in this policy's year. Therefore, the first thing to do is to establish that. The only way to

establish that is look at the vet evidence. I don't agree with SOL's view that Miss S' vet is lacking in independence to decide such matters. It's Miss S' duty to prove her claim, the only way she can do that is by her own vet's evidence. There is no requirement in this policy that she is under any duty to use an independent vet to verify her claim. Furthermore, as SOL is fully aware this service finds such expert evidence to be persuasive because that vet has examined the animal and indeed treated it.

Also, once SOL decided not to pay this claim, then the burden of proof shifts to it in proving its refusal to pay was reasonable.

Miss S' vet provided two letters to explain his diagnosis. The first one on 3 October 2020 where he was of the view that SOL's refusal to pay the claim for bone spavin was unreasonable. He explained that as regards the previous ligament injury [in the previous year's policy and underwritten by a different underwriter] that it had been successfully treated and the horse had returned to full 'soundness' by 17 April 2020. Exercise was gradually increased and at examination on 19 May 2020 the horse was further confirmed to be 'sound'. He also explained the horse suffered a minor setback in early June which settled rapidly.

On 21 July 2020 the horse was found to have a flexion positive lameness to both hind legs isolated to the tarso-metatarsal joints on 24 July with an intra-articular local anaesthetic. It was confirmed at the time this was unrelated to the previous ligament injury. So, the vet is of the opinion the claim for bone spavin is a separate claim.

On 11 January 2021 Miss S' vet wrote another letter dealing with the fact that SOL said the vet history comments didn't match what the vet had said previously about the horse being 'completely healed'. He explained he never said the horse was 'completely healed' he said the horse had returned to full 'soundness' as his detailed examinations showed. The vet history explains that the lesion on the ligament might not return to 100% normal due to scar tissue. But that doesn't mean the horse wouldn't be completely 'sound'.

He explained that as the horse was completely 'sound' after the previous ligament issue, he suffered another 'unsoundness' this time related to the bone spavin which is completely unrelated. He remained of the view the claim should be paid.

SOL's vet said on 12 October 2020 so in response I presume to Miss S' vet's first letter above. He felt the policy wording made this one condition not two conditions. He then went on about Miss S said on social media which contradicted her vet saying Miss S' vet was 'sound' in between the ligament injury and the bone spavin symptoms. SOL has provided no evidence of anything said on social media platforms by Miss S, so I can't consider those.

So instead SOL's vet cast dispersions on Miss S' vet statement that the horse was 'sound' in between both issues. I not entirely sure why from a medical perspective, as this vet doesn't discuss the issue at all from a medical point of view. I find his evidence lacking in sufficient vet expert detail to explain his opinion that the horse wasn't sound in between both issues. The vet history records it as such, namely being 'sound'. Therefore, I am more persuaded by Miss S' vet conclusions on the matter. More so since he was scanning this horse, watching him trot etc and examining him too at the time.

In the final response letter dated 16 March 2021 SOL concentrated wholly on the fact the ligament condition and the bone spavin condition were linked as in the bone spavin condition was simply a continuation of the ligament issue. And it said on the balance of probabilities it was a continuation claim. However, there's no medical evidence of that so as to find anything on the balance of probabilities, let alone this. The only medical evidence on the matter is from Miss S' vet who clearly details why the bone spavin wasn't related to the

previous ligament injury. SOL also relies heavily on what the previous underwriter said. But I don't consider that's relevant at all, as I discussed above.

In response to the investigator's view. SOL again relied on what the previous underwriter said which I don't consider to be relevant here. More so since the previous underwriter was in no position to comment since it wasn't insuring Miss S' horse at the time her vet made this claim, given for some reason there was a change of underwriters. There's also no evidence of any investigation it might have done either.

So, in conclusion I don't consider SOL has adequately shown me why it was refusing to pay this claim. On that basis I don't consider its decision to refuse to pay this claim for this condition to be either fair or reasonable.

Miss S has produced further vet invoices for this condition to us, which have yet to be seen by SOL. However, I would generally expect SOL to assess them in the usual way under the remaining terms and conditions having regard to this decision. But obviously I can make no finding on these further invoices as SOL hasn't seen them, so the issue of those further invoices is not part of this decision.

### **My final decision**

So, for these reasons it's my final decision that I uphold this complaint.

I now require Society of Lloyd's to do the following:

- Reconsider Miss S' claim under the remaining terms and conditions and settle her claim.
- Interest of 8% simple per year should be added from the date Miss S paid her vet fees to the date it reimburses her. If income tax is to be deducted from the interest, appropriate documentation should be provided to Miss S for HMRC purposes.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 19 October 2022.

Rona Doyle  
**Ombudsman**