

The complaint

Mr and Mrs C complain about how Society of Lloyd's has dealt with a claim under their building warranty insurance policy.

For ease of reading, any reference to Society of Lloyd's also includes its agents.

What happened

Mr and Mrs C bought a house in 2018 which is covered by a 10-year insurance backed building warranty policy. Mr and Mrs C were unhappy with issues with their house and so complained to the builder and warranty provider.

The process within the building warranty policy says if there is a disagreement about any work needed then the dispute is referred to a mediator. If the actions agreed through the mediation process aren't completed then the insurer, Society of Lloyd's, will step in to see if the issues with the property are covered under the insurance element of the policy.

Mr and Mrs C's concerns went to mediation and the report was issued in March 2020. The mediation gave recommendations on what needed to be done to resolve the dispute but didn't give a deadline for when the recommendations needed to be completed. As Mr and Mrs C weren't happy with how their concerns with their house were being dealt with, they referred their complaint here under a different complaint to this one. Our investigator reviewed that complaint but said it wasn't within our jurisdiction as the insurance element of the policy hadn't commenced, as no deadline had been set in the mediation report. Therefore, Mr and Mrs C raised a complaint with Society of Lloyd's.

Society of Lloyd's reviewed the complaint in September 2022 and didn't uphold it. It didn't agree it hadn't handled the claim well, as Mr and Mrs C had been communicating with the builder and been through the mediation process. It also said there had been a period of around 12 months where Mr and Mrs C hadn't chased the issues with their house and that some of the issues raised weren't covered by the policy. Society of Lloyd's confirmed it was reviewing the issues raised and would be in contact with the next steps.

Unhappy with the response, Mr and Mrs C referred their complaint here. They said there was black mould on the internal walls of their house along with other issues with how it was built. They also said it was almost five years now since they'd bought the house and the issues still hadn't been fixed.

I issued a provisional decision on this complaint on 5 December 2023 where I said:

"Mr and Mrs C's house is covered by a structural warranty policy. The policy provides cover for defects raised within the first two years. Mr and Mrs C raised a claim for defects with the property within the first two years which are covered by the developer. If the developer doesn't rectify the defects then the responsibility passes to Society of Lloyd's but only in certain situations.

The policy says Society of Lloyd's will not be liable unless:

“the Developer has accepted the Mediation decision after using the Mediation service but has failed to carry out the Works or repairs stated in the Mediator’s report within the time frame stipulated”.

A mediation report was issued in March 2020. However, it didn’t specify a timeframe for when the recommendations needed to be completed by. As Mr and Mrs C weren’t happy with how the defects were being rectified, they requested the insurer, Society of Lloyd’s rectify the issues. Society of Lloyd’s issued its final response on 2 September 2022 where it didn’t uphold Mr and Mrs C’s complaint.

While the mediation report didn’t specify a timeframe for the recommendations to be completed, I’m satisfied that at the point Mr and Mrs C raised their concerns with Society of Lloyd’s, sufficient time had passed for the developer to complete the recommendations and so the responsibility would pass to Society of Lloyd’s. This happened on 25 October 2021 when Mr and Mrs C expressed that they wanted to claim on the insurance element of the policy. Therefore, in this decision I’m only considering Society of Lloyd’s handling of the claim between 25 October 2021 and 2 September 2022, when it issued its final response letter. Anything which has happened after September 2022 will need to be considered separately.

When doing so I can see there hasn’t been a response from Society of Lloyd’s to confirm whether the issues are or aren’t covered under the policy. I say this because in the final response letter issued it says:

“Before closing, as the issue would appear not to have been concluded to your satisfaction, I have asked for underwriters’ comments around the current status of matters, what is outstanding that is preventing the matter from concluding, what it needs to proceed to a conclusion, what any next steps might be and approximately how long these might take.”

I can see the final response says that Society of Lloyd’s had requested Mr and Mrs C’s comments on what remedy they required in respect of the bi-fold doors. It goes on to say Mr and Mrs C didn’t respond to this to which Mr and Mrs C disagree and said they had responded.

While it is helpful to understand what Mr and Mrs C would like to be done to rectify the issues raised, it’s also for Society of Lloyd’s to explain what the policy does and doesn’t cover when a claim is made. From the information provided I’m unable to see Society of Lloyd’s has done this. When taking into account that Mr and Mrs C said they wanted to claim on the policy in October 2021, almost a year earlier, I’m not persuaded it’s handled the claim promptly, as it should. This has therefore delayed their claim and caused them unnecessary distress and inconvenience. I’m therefore satisfied that Mr and Mrs C should be compensated for the poor claim handling, up to 2 September 2022.

I say this because Mr and Mrs C had raised concerns and made it clear they wanted to claim on the insurance in October 2022. There has been some communication and Society of Lloyd’s has said it’s not received information requested. I’m not satisfied that by not chasing this information or moving the claim forward is dealing with it in a fair and reasonable way. And because of this Mr and Mrs C haven’t been given an answer to their claim almost a year after it was raised. This has caused unnecessary distress and inconvenience of living in their house with defects and having to chase the progress of their claim for almost a year. So, to compensate them for this Society of Lloyd’s should pay Mr and Mrs C £500 for the unnecessary distress and inconvenience caused by its poor claim handling between 25 October 2021 and 2 September 2022.

I understand the claim has moved on since September 2022, but as explained above as this has happened after Society of Lloyd's issued its final response if Mr and Mrs C are unhappy with what has happened after this date then that would need to be raised separately."

Mr and Mrs C responded and accepted my provisional decision. They also referred to correspondence they'd sent to Society of Lloyd's. In this they had referred to documentation about the policy which says they will be helped through the claim process and asked for help.

Society of Lloyd's responded and didn't accept my decision. It referred to a stage one response dated 26 May where it said Mr and Mrs C had been told which items weren't covered and said this showed they were aware at an early stage what was and wasn't covered by the policy. Society of Lloyd's also provided other correspondence which it said showed when attempts had been made to access the property, but it hadn't been able to.

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.

I've reviewed Society of Lloyd's objection to my provisional decision, but I'm not minded to depart from my findings in it. I say this because the stage one response dated 26 May it has referred to, appears to be the complaint response letter sent on 26 May 2022. While this does give a timeline of the events, it's a response to a complaint and says Mr and Mrs C were asked what they would like to resolve things to their satisfaction. It doesn't make it clear what is or isn't accepted as a claim under the policy or that Mr and Mrs C had been previously made aware what was covered, so I don't agree this shows Society of Lloyd's has dealt with the claim promptly.

I've also reviewed the other evidence Society of Lloyd's sent in which it says shows it's been denied access to the property. When I've reviewed this the letter and all of the dates referred to in it are after 2 September 2022, and therefore outside the scope of this complaint. So I'm also not persuaded this shows Society of Lloyd's dealt with the claim as it should between 25 October 2021 and 2 September 2022.

I've also considered Mr and Mrs C's response. While I understand the frustration they've been caused, I'm satisfied the compensation of £500 is fair and reasonable for the issues they've had between the dates which are relevant to this complaint. I'm therefore not persuaded to depart from my provisional decision.

My final decision

For the reasons explained above, and in my provisional decision, my final decision is that I uphold this complaint. I require Society of Lloyd's to pay Mr and Mrs C £500 for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C and Mrs C to accept or reject my decision before 9 February 2024.

Alex Newman
Ombudsman