

The complaint

C, a property company, complains about Society of Lloyd's decision to decline a claim and about delays in the handling of that claim.

What happened

The background to this complaint is well known to both parties, so I'll provide only a brief summary here, concentrating on the key issues. When I refer to Society of Lloyds (SoL), I may be referring to actions taken by their agents.

C has a property owners insurance policy underwritten by SoL. This covers the buildings on a property they own.

C made a claim in November 2023 after a retaining wall collapsed at the property following a named storm.

SoL declined the claim in January 2024, but C asked them to review that decision. As a result, SoL appointed loss adjusters, who in turn arranged for an inspection and report from a structural engineer.

Having received that report, SoL maintained their decision to decline the claim on the basis that the damage to the wall had been gradual, rather than being primarily caused by the storm.

C weren't happy with this and made a complaint to SoL about both the decision to decline the claim and the delays in SoL coming to that conclusion (which they'd communicated to C in May 2024).

SoL admitted that there had been avoidable delays in the handling of the claim. They said they could and should have appointed loss adjusters sooner. And they said they'd delayed communicating their decision to C after they received the engineer's report.

SoL offered – and I believe paid - C £200 in compensation for the inconvenience those delays this had caused. But they said the decision to decline the claim had been correct.

C weren't happy with SoL's response and brought their complaint to us. Our investigator looked into it and didn't think SoL had done anything wrong.

C disagreed and asked for a final decision from an ombudsman.

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.

First of all, I should clarify what it is I'm looking at in making this decision. This is important for reasons I'll explain below.

The Financial Conduct Authority rules which govern the way our service operates (the dispute resolution, or DISP rules) say that we can only look at complaints the respondent business has had the chance to consider and resolve themselves (unless they give us their explicit consent).

So, what I can look at in this decision is SoL's decision to decline the claim in January 2024 and then again in May 2024, after the expert had provided their report. Because that's what C complained to SoL about (along with the delays, which I'll come to later).

The question for me then is whether that decision to decline the claim was fair and reasonable given the evidence and information that SoL had *at that time*.

I say that because when C asked for the case to be referred to an ombudsman, they also asked for time to obtain their own expert report and evidence. They think that may undermine SoL's current position and will show that the claim should be settled.

As the DISP rules imply, our role is to look at what happened (by definition, in the past) and decide whether the business made an error – and, if so, how they need to put things right for the complainant.

It's not our role to referee an on-going dispute between the parties where new evidence about a claim and/or the cause(s) of loss or damage is being produced by one or both sides.

So, to get to the crux of this complaint, when SoL made their decision to decline the claim, they had the views of one expert (appointed by their loss adjuster).

That expert's view was that the wall collapsed primarily because of gradual deterioration over time. The issues with the wall may have been highlighted by the heavy rainfall associated with the storm, but the fundamental problem was that the lime mortar holding the wall together had deteriorated.

I know C have questioned that report. However, it is a coherent and cogent account of what the expert found when they visited the site and what they think the primary cause of the damage was.

In other words, the only expert in the picture – as and when SoL made their decision – said the wall fell down due to gradual damage over time.

C are right to think the way to question that outcome is to get another expert opinion, which may or may not be more or less compelling than the view offered by the expert appointed by the loss adjuster.

However, for the reasons I've explained above, it's not for us to wait until C obtain an alternative expert opinion. The question for me now is did SoL act unreasonably in declining the claim, given the information they had at the time. And I don't think they did because the only expert with a view - *at that time* - told them the damage was gradual.

If C produce another expert report, with different conclusions, I'd fully expect SoL to consider that new evidence – and to consider re-opening the claim, if that evidence is compelling.

And if C do produce such a report and aren't happy with SoL's consideration of it, they'd be entitled to make another complaint to SoL – and then bring that to us if they aren't happy with SoL's response.

But my decision now is about the original decision to decline the claim. And based on the

evidence available to SoL at the time, I don't think that decision was unfair or unreasonable.

SoL have admitted that there were avoidable delays in the handling of the claim. These were relatively minor, given that the claim did need investigating properly and did need an expert opinion. So, I'm satisfied the £200 compensation was sufficient.

It's my understanding that £200 has been paid to C.. But it goes without saying that if it hasn't, it should be paid now.

My final decision

For the reasons set out above, I don't uphold C's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask C to accept or reject my decision before 3 January 2025.

Neil Marshall
Ombudsman