

The complaint

Mr and Mrs R complain about the handling of their buildings insurance claim by Lloyds Bank General Insurance Ltd ('Lloyds').

A large part of this complaint concerns Mr and Mrs R's unhappiness with agents acting on behalf of Lloyds. For clarity, as Lloyds have accepted they are accountable for the actions of their appointed agents, any reference to Lloyds in my decision should be interpreted as also covering the actions of their agents.

What happened

The background to this complaint is very well known to Mr and Mrs R and Lloyds. It has taken place over a number of years. In my decision, I'll focus mainly on giving the reasons for reaching the outcome that I have.

Mr and Mrs R had a claim for subsidence accepted under their buildings insurance policy with Lloyds. Unhappy with how the claim was handled, Mr and Mrs R raised a number of complaints. Lloyds partially upheld the complaint I'm considering here. As Mr and Mrs R remained unhappy, they referred their complaint to our Service for an independent review.

Our Investigator considered the complaint but didn't recommend that it be upheld. As Mr and Mrs R didn't accept the Investigator's assessment, the complaint was then passed to me for a decision. I recently sent both parties a copy of my provisional, intended findings. As the deadline for responses has now passed, I've considered the complaint for a final 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.

Both parties have now responded to my provisional decision. Mr and Mrs R provided a very detailed response, but nothing new that would materially affect the outcome that I'd intended to reach. For example, Mr R provided commentary on most paragraphs in my decision, but his arguments are ones that I've already considered. I won't address each and every point in Mr R's response. My previous findings form the basis of this, my final decision.

Both parties will also note that my decision is relatively brief, despite a large amount of evidence being presented by both parties. Our Service is an alternative, informal dispute resolution service. Although I may not address every point raised as part of this complaint - I have considered them. This isn't intended as a discourtesy to either party – it simply reflects the informal nature of our Service. I have largely focused on making findings on the evidence that materially impacts the outcome of this complaint.

It's important that I stop and acknowledge the impact of this subsidence and the subsequent insurance claim on Mr and Mrs R. From reviewing the extensive evidence on file, it's clear they've experienced a very tough time - across a number of years, particularly at a time of their life when they ought to be enjoying retirement. Mr and Mrs R have suffered - with their

health being impacted too. I'm very sorry to hear of their experience and I wish them well moving forward.

The scope of my decision

Mr and Mrs R have raised a number of complaints with Lloyds, over a number of years. My decision will only consider the complaint referred to our Service (final response letter dated 28 June 2023). This dealt with these main issues; the service received, alternative accommodation and the underpinning/works carried out.

I note that whilst this complaint has been with our Service, Mr and Mrs R also expressed dissatisfaction with further issues/damage after Lloyds had completed their works on the property. Our Investigator correctly set out in her assessment that under the rules our Service must abide by, Lloyds had to first be given a fair opportunity to respond to any new concerns before Mr and Mrs R could refer those points to our Service for us to investigate.

When considering the complaint for a decision, my main considerations are:

- Have Lloyds fairly and reasonably dealt with this claim, in line with the policy terms?
- The service provided by Lloyds overall when handling this claim.

As our Investigator has pointed out, our Service are not buildings experts. We rely on expert opinions and evidence when considering a complaint.

Have Lloyds fairly and reasonably dealt with this claim, in line with the policy terms?

I acknowledge the strength of feeling Mr and Mrs R have around the repair works Lloyds carried out. I understand a large part of their complaint is Lloyds have only done half the job, and, to paraphrase Mr R – it's inevitable that future issues will arise.

The policy Mr and Mrs R had is an indemnity policy. In the event of a claim being made, it's intended to return Mr and Mrs R (their property) to the position they were in immediately prior to their loss/claim. I understand Mr and Mrs R's position that they feel Lloyds could mitigate against future issues before they happen – but that's not the intention of this policy and there is no obligation on Lloyds to do so.

Lloyds identified the proximate cause of the subsidence was clay soil being affected by nearby vegetation (trees), that in turn affected the stability of Mr and Mrs R's property. On balance, I find that reasonable efforts were made by Lloyds to engage with the relevant neighbour to have the trees removed and/or cutback. It's unfortunate that the neighbour seemingly was unwilling to comply fully with actions that may have benefited Mr and Mrs R, but Lloyds did serve notice of potential future legal action to the neighbour. I consider this fair.

Based on what I've seen the subsequent works (partial underpinning of the property) authorised by Lloyds were a reasonable, evidence based course of action following a period of monitoring and expert surveys - alongside the difficulties in getting agreement from Mr and Mrs R's neighbour to take sufficient action.

Mr and Mrs R have referred to other actively growing roots, but no evidence has been presented as part of this complaint that the roots have caused movement damage that Lloyds should have put right or that Lloyds haven't carried out an effective and lasting repair. Mr R has referred to internal business correspondence:

“He mentions other roots found within the garage area, we have never disputed that roots will grow, however the roots that he may have found are not causing any concern at the moment to that side of the property”

I find the businesses' response to be reasonable. As stated above, this is an indemnity policy, not a preventative policy. This means it responds when Mr and Mrs R suffer a loss or damage - not before that.

In a letter dated 23 May 2023, Mr R said:

“If nothing is done to this above area (east side of the Conservatory) to stop the roots i.e. as the other conservatory, then we will either hold [business name redacted by Ombudsman] and those directly involved/responsible for any future damage/problems that will occur...”

In my opinion, it's clear that Mr and Mrs R also want future guarantees. For example - to assist with any property sale, but that's not something I'll be directing Lloyds to do. In an email to Mr R (dated 14 February 2023) Lloyds said that should any subsidence damage occur within 5 years and is in the same place and by the same cause, then this claim would be reopened and any damage to be inspected. When I've considered this alongside the certificate of structural adequacy, the 12 month warranty provided and confirmation (email to Mr R dated 14 February 2023) that any issues arising (same area, same cause) would be reconsidered - I find Lloyds' actions to be fair and I won't be directing them to make any additional future guarantees.

On balance I find the course of action taken by Lloyds to be fair and reasonable. It would be inappropriate of me to comment on the new evidence (further damage) Mr and Mrs R raised with Lloyds recently. I don't want to prejudice either parties position.

Alternative accommodation

I'm satisfied that Mr and Mrs R were fairly offered the option of alternative accommodation ('AA'). It wasn't unreasonable of Lloyds to decline agreeing to cover Mr R's travel costs to and from the AA so he could inspect building works. A fair compromise was offered whereby, with prior notice (for health and safety reasons) Mr R could come and inspect progress - but not on a daily basis. I don't find his offer particularly unusual.

The service provided

It's not in dispute that Lloyds caused avoidable distress and inconvenience to Mr and Mrs R. I say this because they've already made an offer of £250 in recognition. But I find that this offer doesn't go far enough to recognise the avoidable impact Lloyds' actions have had on Mr and Mrs R.

For balance, it's important that I recognise that things can and do often go wrong with complex insurance claims of this nature - particularly where a claim extends over a long period of time. I've also kept in mind that I'm only considering the direct and indirect impact of Lloyds' actions here – not any third party such as the surveyor who compiled Mr and Mrs R's home buyers report, the seller of the property or their neighbour. Mr and Mrs R would need to take legal advice with regards to any potential recourse against any third party here.

I find that the avoidable impact on Mr and Mrs R hasn't been fully recognised by Lloyds. I note that Lloyds provided a relatively clear and concise response to an MP on Mr and Mrs R's behalf, dated 4 October 2023 that sets out what happened and why. I can't agree that much of Lloyds communication with Mr and Mrs R's was as clear as it ought to have been

during the course of the claim. As an example, I find that Lloyds could have been much clearer about the scope and extent of works to be carried out – rather than Mr and Mrs R having to clarify with builders and Lloyds. This may have avoided uncertainty and confusion.

Overall, I find the £250 offered doesn't go far enough.

Putting things right

Lloyds Bank General Insurance Limited now need to pay Mr and Mrs R a total of £500 compensation.

My final decision

Lloyds Bank General Insurance Limited now need to follow my direction as set out under the heading 'Putting things right'.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R and Mrs R to accept or reject my decision before 2 December 2024.

Daniel O'Shea
Ombudsman