

The complaint

Mr and Mrs M complain about the progress and decisions that Lloyd's Insurance Company SA ("Lloyds") has made in relation to a subsidence claim for their holiday home abroad.

Any references to Lloyds in this decision include its appointed agents and representatives.

What happened

Mr and Mrs M own a holiday home abroad which is insured by Lloyds. In 2022 they noticed cracking at the insured property and made a claim for damage caused by subsidence. Lloyds sent its surveyor to the property but ultimately declined the claim, saying the damage wasn't caused by subsidence but by a defective design of the roof structure.

Mr and Mrs M complained about Lloyds' decision to decline the claim. They said there were inadequacies in the way the investigation had been carried out and that whilst they'd tried to employ their own surveyor, due to the language barrier this had proven difficult.

In its response to the complaint, Lloyds said based on its expert reports, the damage had been caused by a lack of support in the roof structure and this amounted to defective design or faulty workmanship, which wasn't covered by the policy.

Mr and Mrs M didn't agree, so they referred a complaint to this service. That complaint was decided by an Ombudsman, who concluded that Mr and Mrs M hadn't shown that the damage had been caused by an insured peril, covered by the policy. The Ombudsman also clarified that in insurance claims, it's for the policyholders to show that the damage has been caused by something the policy provides cover for. And that as there was no insured peril in the policy covering roof movement or load issues, the damage wasn't covered by the policy.

Lloyds offered to send its own structural engineer out to the property again, to review the damage further and to see if another report changed things. The Ombudsman made clear to Mr and Mrs M that if they were unhappy with Lloyds' further findings, they could bring another complaint to this service.

Mr and Mrs M accepted the Ombudsman's decision, which confirmed that Lloyds had fairly declined the claim, and they accepted the offer of a visit from a structural engineer. The site visit took place and the engineer confirmed that the cause of damage was ground movement, in contrast to the previous report which said the issue was to do with the roof. But the engineer was unable to confirm the precise cause of the ground movement as further investigation was needed. Trial excavation of the foundations was recommended to determine whether the cause might be a defect, tree roots, or pipes, for example.

Lloyds said, following its receipt of the further report, that as the exact cause of the ground movement hadn't been established, further investigation would be necessary as recommended by the structural engineer. Mr and Mrs M didn't agree. They said the previous report had been proven to be false and the new report confirmed that the crack in their property was caused by subsidence. So they brought a second complaint to this service.

Our Investigator considered the complaint, but didn't think it should be upheld. She said that whilst the site visit had confirmed there was ground movement, the cause of it hadn't been established. She added that it wasn't unusual for the further investigations to not have been carried out at the previous site visit, as it was important for the engineer to obtain Lloyds' approval for trial excavation first, which was standard practice.

Because Mr and Mrs M didn't agree with our Investigator's opinion, the complaint has now been passed to me for an Ombudsman's 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.

As this is an informal service, I'm not going to respond here to every point raised or comment on every piece of evidence Mr and Mrs M or Lloyds have provided. Instead, I've focused on those I consider to be key or central to the issue in dispute. But I would like to reassure both parties that I have considered everything submitted. And having done so, I'm not upholding this complaint. I'll explain why.

I've read the structural survey carefully. It confirms the primary cause of the observed cracking damage to the property is ground movement. It further confirms that there are no characteristic signs of roof spread affecting the property. And whilst it says the cause of the movement is likely to be rainwater tracking into the substrates and possible root damage, the engineer doesn't confirm this and goes on to recommend trial excavation, as well as testing of the plumbing and waste pipe runs for leaks.

On the face of it, I can understand Mr and Mrs M's concerns. They've had a final decision from an Ombudsman previously which said the claim had been declined fairly, but further investigation should be allowed. That investigation has now been carried out and it's shown that the previous conclusions about the cause of the cracking were incorrect. So from Mr and Mrs M's perspective, the claim has been validated.

But this isn't how subsidence claims work. And insurance policies aren't designed to cover every eventuality or situation – or indeed every instance of ground movement. An insurer will decide what risks it's willing to cover and set these out in the terms and conditions of the policy document. The test then is whether the claim falls under one of the agreed areas of cover within the policy.

So, whilst it's been established that there has been ground movement, there are still a number of factors to determine before the claim can be accepted and dealt with by Lloyds. These can only be established by trial excavation – which is a common part of the required investigations in subsidence claims. I can understand the difficulties this presents for Mr and Mrs M, as they don't live abroad at the insured property. And they say they're already out of pocket from the two earlier visits to the holiday home. But I'm afraid those factors, however significant, aren't relevant to my consideration of this complaint and my review of whether Lloyds has acted fairly.

I've seen that the structural engineer contacted Mr and Mrs M directly, to explain that the process of investigating their claim was not yet complete, following his report. He clarified that in order to value the works required to fix the damage and deal with the underlying problem, the makeup of the foundation and depth and type of substrates would need to be ascertained. He added that this might involve a geotechnical study and that it was important to know more as the claim could still be declined if the foundations proved to be defective.

I appreciate that trust has broken down between Mr and Mrs M and Lloyds, such that Mr and Mrs M wouldn't allow investigations to take place without them being present at the property – and they've also mentioned there are no nearby keyholders. But if Lloyds was to decline the claim entirely at this point, then Mr and Mrs M would be left having to deal with the problem themselves, which would inevitably require visiting the property in any event.

In the circumstances therefore, I'm not upholding this complaint as I'm satisfied that the fair and reasonable way forward is for the further investigations recommended by the structural engineer to be carried out. Once Lloyds has carried out those further investigations and reached a decision about the claim, and if Mr and Mrs M disagree with it or with the service provided by Lloyds following this final decision, they will be entitled to bring a further complaint to us – subject to the usual rules and time limits that apply.

My final decision

My final decision is that I do not uphold this complaint and Lloyds should be able to carry out the further investigations it requires in order to validate the claim.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M and Mrs M to accept or reject my decision before 20 April 2025.

Ifrah Malik
Ombudsman