

## **The complaint**

A limited company, which I will refer to as D, complains about the decision of Society of Lloyd's trading as Lloyd's of London to decline its public liability insurance claim.

## **What happened**

The following is intended only as a summary of the key events. Additionally, although other parties have been involved in the claim and complaint process, I have largely just referred to D and Society of Lloyd's for the sake of simplicity.

D operates as a roofing contractor, and held a commercial insurance policy underwritten by Society of Lloyd's. In September 2022, D was working on a third party's property, and a fire started causing damage. As the work D was carrying out involve the use of "hot works", a claim was made against D on the basis it had caused the fire.

D attempted to claim under the public liability section of the policy. Society of Lloyd's declined this claim though. It relied on a number of clauses in the policy that it said D had not complied with when carrying out the works. Society of Lloyd's said that, because these had not been complied with, the policy did not cover the circumstances of the claim.

D complained about this, bringing its complaint to the Financial Ombudsman Service. However, our Investigator did not recommend that the complaint should be upheld. He thought D hadn't complied with the conditions, and that Society of Lloyd's had acted fairly and reasonably by declining the claim.

D remained unsatisfied, so its complaint has been passed to me for a 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.

Having done so, I am not upholding this complaint. I've explained why below.

Firstly, I will just reiterate that the summary above is just that. I have considered all of the submissions from both parties. But I have not commented on every point or circumstance. Instead, I have focussed on what I consider to be the key issues. This is not intended as a discourtesy, but rather reflects the informal nature of the Financial Ombudsman.

Due to the nature of its work, D is required to carry out hot works. This involves the use of a blow torch, or hot air gun, to seal certain roof materials. This work inherently carries a risk, and this is a risk that Society of Lloyd's is prepared to insure. However, due to this elevated risk, Society of Lloyd's added a number of conditions to the policy.

These conditions are set out in the policy schedule. They are clearly identified as conditions precedent to Society of Lloyd's liability. Breach of these conditions will mean that Society of Lloyd's is not liable for a claim.

There are a number of these conditions that Society of Lloyd's has said were breached. It is arguable whether compliance with all of these was feasible given the situation of the premises D was working on.

However, one of the conditions was that:

“immediately upon finishing work a thorough examination must be made in and about the area (including the other side of walls, partitions, roofs, ceilings or floors) where the work has been carried out to ensure that no ignition has taken place or for evidence of smouldering or transmission of heat which may cause a fire. Then further thorough examinations at thirty (30) and sixty (60) minute intervals afterwards or more frequently as required by any risk assessment”

D was carrying out work on an area of roof where it would have been difficult to examine the other side. But the reports that have been prepared following the fire make it clear that an inspection of the area would have been possible from the garage at the property. And that this would likely have resulted in evidence of smouldering being detected had it taken place.

D did not carry out this inspection, largely because the third party was not present and D had not arranged to have access to the garage in the third party's absence. I consider that D could have either made such arrangements, or carried out this work at a time when the third party was present. Had they done so, this would have allowed them to comply with the above condition. I do not consider that D monitoring the area for longer than the period above means that it complied with this condition.

As this is a condition precedent to its liability, it is not technically necessary for Society of Lloyd's to demonstrate that non-compliance increased the risk of the claim. However, I think this has been done regardless. Making an inspection, which would have revealed smouldering material, clearly would have reduced the risk of a claim. And I think it is fair and reasonable for Society of Lloyd's to consider not doing this increased this risk. Certainly, D has not demonstrated that breach of this condition precedent did not prejudice Society of Lloyds' position.

D has said that this policy term is more onerous than that contained in previous policies it has held, and other policies that are available. Whilst I note these comments, it is the requirements of the policy it held with Society of Lloyd's that D was required to adhere to.

Society of Lloyd's is able to rely on the terms of the policy, even where these are onerous. I say this because the endorsements were highlighted at the point of sale, with the policy schedule listing them and then providing full detail of them. I consider the detail provided was clear and would not reasonably be interpreted as being ambiguous.

I appreciate this is not the outcome D was hoping for. But for the reasons above, I find Society of Lloyd's acted fairly and reasonably by declining its claim. And it follows that I do not require Society of Lloyd's to do anything more in the circumstances of this complaint.

### **My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask D to accept or reject my decision before 1 September 2025.

Sam Thomas

**Ombudsman**