

The complaint

Mr W complains about the way Society of Lloyd's has handled a claim for subsidence.

Mr W has been represented at times during the claim and complaint. At some points I've referred to the representative, but mostly I've attributed all actions and comments as being those of Mr W, even if made by the representative.

What happened

In August 2020 Mr W noticed cracks in the property a claim was made under his Lloyd's insurance policy. Initially Lloyd's declined the claim, it said the damage wasn't related to current or progressive subsidence but had likely been caused by historic subsidence. It said more recent damage that had occurred was thermal related, and so not covered under the policy.

Mr W provided further evidence to Lloyd's, and it said it would agree to site investigations. Unsatisfied with that response, Mr W referred that complaint to the Financial Ombudsman Service. An Investigator here considered it. She thought the appointment of an independent engineer, as had (by that point) been proposed by Lloyd's, was a fair and reasonable way to resolve matters. She also thought £800 compensation offered by Lloyd's was reasonable for the impact of the avoidable delay it had caused in the claim. The complaint was resolved at that stage in early 2023.

Following the findings of that independent engineer ("G"), Lloyd's accepted there had likely been a small occurrence of subsidence at the property during the policy term. In August 2023 it offered settlement, for what it considered the insured repairs to be for damage covered by the policy, and other costs at around £6,700.

Mr W didn't accept that. He said his losses stood at around £92,000. This amount was made up of the repair costs needed, loss of rent as the property was uninhabitable and council tax incurred, as well as expert fees he had incurred.

Lloyd's issued a complaint final response letter in June 2024. It said it accepted it had caused further delays and offered £150 compensation in recognition of that. But it didn't agree to any other losses claimed by Mr W.

Unsatisfied with Lloyd's response, Mr W referred his further complaint to this Service. He said to resolve matters he wanted:

- Remedial works to be carried out to all damage, or a cash payment in lieu.
- Loss of rental income paid from August 2020 until the date repairs are completed, or cash settlement has been paid.
- Council tax expenditure reimbursed from August 2020 until works are completed or cash settlement paid.

Our Investigator was satisfied that Lloyd's had made a reasonable decision that most of the damage had happened before the policy started and was not indicative of progressive movement. She also didn't accept that the property was uninhabitable owing to the insured damage. As such she didn't recommend Lloyd's make any loss of rent payment, or for council tax paid over the period Mr W said the property was empty. She was satisfied its offer of £6,700, for the insured damage, was fair and reasonable.

Initially our Investigator recommended that Lloyd's carry out some further investigation work recommended by the independent engineer, G, including assessing drains. However, Mr W's representative then told her that the property had undergone repairs, in August 2024 and was now re-let. He said the issue wasn't really about any further investigation works, it was a matter of quantum for the damage that had occurred. As a result of this further information, our Investigator said she would no longer recommend Lloyd's carry out any further investigations.

Mr W didn't accept the outcome of our Investigator. He said the property had benefitted from continuous insurance with Lloyd's since 2018, it was remarketed for letting in 2019, with no damage to the property present at that time. It said as such, all the subsidence damage had happened when Lloyd's was on cover. He also said that one of the cracks had gone through the entire wall of the property, such that one could see outside of the property through the crack. They said that would make the property uninhabitable.

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.

There has been extensive back and forth between the parties and our Investigator. I'm not going to repeat detail she's previously set out. As such my findings will be brief, but I'd like to reassure both parties that I've read and considered all that has been provided.

I understand repairs have now been completed to the property in order for it to be re-let. As I understand it, those repairs cost in excess of £50,000. So I've considered the evidence to decide if it is most likely that Lloyd's should be responsible for any (or all) of those repair works. Lloyd's would only be responsible for works caused by an insured event under the policy, so I've considered the evidence in relation to this claim to decide if Lloyd's made a reasonable decision in relation to the subsidence claim.

Mr W's policy says damage caused by subsidence commencing prior to the granting of cover is excluded. So I've looked at the evidence provided to see if Lloyd's position, that most damage is excluded, is reasonable.

I find G's report, commissioned by both parties as an expert, to be persuasive in this regard. It concludes that most of the damage to Mr W's property is historic subsidence damage. It is worth noting that Mr W's own engineer, H, who carried out a report in 2021 had concluded the same.

G says the damage being historic is evident due to the fact that previous repairs to cracks have been undertaken, and historic distortions to the building which have caused the slope towards the rear, with a significant lean. As such I think Lloyd's decision to rely on this report to exclude most of the damage, was fair and reasonable.

G's report did also conclude "*there is a minor episode of subsidence which has occurred in the last 3 years.*" This conclusion seems to be based on minor cracks which G considered to have more recently appeared in the plaster. The report recommended, to repair that damage, a series of "stitch repairs".

Lloyd's loss adjuster disputed G's findings in that respect, it considered the most recent cracks to be evidence of previous poor repairs to the plaster, rather than evidence of any ongoing movement or subsidence that had occurred (and stopped) under the policy term. In any event Lloyd's decision was to settle for the damage G considered could have happened as the result of an event covered by the policy during the policy term.

I've noted Mr W's comments on G's report, but I'm still persuaded it was reasonable for Lloyd's to rely on it. Mr W has provided images from when the property was last marketed in 2019, he says this shows there were no cracks at that point, and so the subsidence damage

must have happened after that point. He's also referred to a mortgage survey report carried out in 2006 which didn't note any issues with the property.

I'm not persuaded either of these reports means Lloyd's was unreasonable to rely on the findings of G. G noted that repairs had previously been done – it's possible that was done before the property was marketed in 2019. And the mortgage survey, from more than a decade before that, is noted to be a 'desktop review'. I'm satisfied it is not a structural survey report carried out after a surveyor had attended the property.

Of its total settlement offer of £6,700, £4,200 was allowed for repairs Lloyd's considered necessary under the claim. That was for an installation kit of helibars, and the necessary labour for them to be installed, as well as the necessary internal filler and decoration works. Having reviewed the scope of works, and Lloyd's offer, I'm persuaded it was a fair and reasonable one.

Mr W's schedule was for around £50,000. Mr W had claimed £10,000 for "specialist repair works"; I'm persuaded by Lloyd's comments that cost was too high for the repairs needed to the insured damage. Around £5,000 was also included for replacement windows and doors, which I'm satisfied Lloyd's were reasonable to exclude. Its view was those either needed replacing due to age or historic distortions from before it was on cover. I consider G's report supports this. There also seemed to be redecoration costs for every room included, when the insured repairs only amounted to damage in a couple of rooms, with some fairly minor external works needed also. As such, I'm not going to require Lloyd's to increase its offer for the repair works based on Mr W's scope.

Like our Investigator, I'm not persuaded Lloyd's should meet Mr W's loss of rent claim for the whole period he says the property couldn't be rented out. The loss of rent section of the policy excludes claims for subsidence where the damage commenced before the policy started. The crack Mr W refers to (where it extended throughout the brick work and plasterboard such that the outside could be seen from inside the property), was found by G to have been historic damage – pre-dating the policy – which had previously been repaired. As such, even if I were to accept the property couldn't be rented out because of that, I still wouldn't require Lloyd's to make a loss of rent payment because that damage is fairly excluded under the policy terms.

The subsidence damage it has accepted occurred under the policy is minor such that I'm not persuaded it would have prevented someone living there. Nor do I see that it would've caused any interruption or interference to the business (of letting the property), which is what the policy requires for a loss of rent claim to be made. As such, I don't consider it would be fair and reasonable in the circumstances of this case to require Lloyd's to pay any loss of rent for when the property wasn't rented. For the same reasons, I consider Lloyd's acted reasonably in refusing to make all of the council tax payments claimed for.

G's report did recommend that further investigations be carried out to rule out any possibility that there was any progressive movement. Lloyd's position on that was the drains referenced belonged to third parties, and so it would need those third parties to carry out any investigations, which would be a lengthy process. Its view was that the stich repairs recommended by G would be sufficient to repair any damage caused by an episode of subsidence at the property, and that further investigations weren't needed as it was most likely there was no progressive movement.

Having considered everything, I don't think that was an unreasonable position for Lloyd's to take. G's report concludes *"there is no evidence of any damage on the rear wall to the cellar. If there had been ongoing subsidence damage, we would have expected the cellar wall to have been affected by damage."* It does also say damage to the ground floor indicates an ongoing problem, but overall, the report doesn't conclude that ongoing movement is most likely. So that one comment, about the ground floor, is at odds

with the remainder of the report which concludes subsidence “has occurred in the last 3 years”, it doesn’t conclude its most likely still ongoing or is *still* occurring.

Now that Mr W has arranged the repairs to the damage, if any new cracks opened, he would need to refer that to Lloyd’s (assuming it is still the insurer at that point). And at that stage this Service would expect Lloyd’s to consider matters further. But as it stands, I’m satisfied that Lloyd’s made a reasonable decision to cash settle for the insured repairs and not carry out further investigation works.

My final decision

My final decision is that I don’t uphold this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr W to accept or reject my decision before 27 August 2025.

Michelle Henderson
Ombudsman