

complaint

Mrs E complains about the handling by The Society of Lloyd's ('Lloyd's') of a claim made under her equine insurance policy. Because of discrepancies in information about her horse's age, Lloyd's are dealing with the claim under a 'mature horse' policy whereas Mrs E believes cover should be provided under a 'young horse' policy.

background

In 2011, Mrs E's horse died following a ruptured abdominal abscess. Mrs E made a claim under her policy for costs relating to the death and preceding treatment. Lloyd's considered the claim but noted that the horse was born in 1996, meaning that the claim could not be considered under the 'young horse' policy which Mrs E had taken out, as that was only available for horses up to the age of 15 years. Lloyd's, however, did agree to transfer cover to its 'mature horse' policy (applicable to horses aged 15 years and over), and backdate that to the 2011 renewal date to allow the claim to be considered under that policy. Mrs E was unhappy with this as the mature horse policy provides a lower level of cover. Specifically, it restricts cover for death to 'accidental injury caused by visible external means'. Mrs E believes the horse was born in 1997 and feels that her claim should be settled on that basis under the young horse policy.

Lloyd's has said that in determining a horse's age, it considers the horse's passport to be the most reliable form of evidence. In this instance, the passport states that the horse was born in 1996. Mrs E acknowledges that that is what is recorded, but believes this to be an error. She provided other documentation which indicated that the horse was born in 1997.

Lloyd's also noted that when it spoke to Mrs E in 2005 at renewal of her policy she said the year of birth was 1998; and that policy schedules had been sent to her each year since then, identifying 1998 as the year of birth.

As a resolution could not be reached, Mrs E raised a complaint with this service.

The complaint was initially considered by one of our adjudicators who was of the opinion that the complaint should be upheld. The adjudicator considered that the documents which were provided to Mrs E when she purchased her horse held more weight than the passport. The adjudicator also felt that although Mrs E did provide an incorrect birth date for the horse to Lloyd's in 2005, this was not intentional as she had obtained no benefit from providing such information.

Lloyd's disagreed. It noted that Mrs E should have become aware of the error when she applied for the passport or when she received her policy schedule each year. Lloyd's maintained that the correct date of birth was 1996 and that the passport provided the appropriate confirmation.

The complaint has now been passed to me to consider and issue a final decision.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

The issue for me to decide is the horse's correct year of birth. This will then determine which level of cover should apply in respect of Mrs E's claim.

Mrs E has provided copies of the agreement for the sale of the horse to her, a registration form for the Pet Identification Service (microchip registration form) and the vaccination certificate – all of which record the year of birth as 1997.

Mrs E has explained that a passport was not a legal requirement when she purchased the horse by an agreement dated 25 April 2002. She did not purchase the passport until 2004. She says that the passport was completed by her then vet, who referred to details on the vetting certificate (dated 30 April 2002). She has provided a copy of the vetting certificate which notes the 'age by documentation' to be 1996 (ie the age recorded on the vetting certificate was itself identified from other documentation). The passport was then issued, showing the year of birth to be 1996.

Mrs E has indicated that the vetting certificate was produced by reference to the information on the microchip registration and the vaccination certificate (dated 13 April 2001) – however both of these record 1997 as the year of birth. In addition, as Lloyd's has noted, the microchip registration is dated 27 May 2002, which is after the date of the vetting certificate, so it appears that could not have been used to prepare the vetting. However, I do not consider that in itself to be decisive. Mrs E has said that her vet has since confirmed that recording year of birth on the vetting certificate as 1996, rather than 1997 as appears on the other documentation, must have been an administrative error on their part.

Mrs E's current vet has provided a letter giving his opinion as to why the date of birth on the passport is 1996. The letter states:

'I am unsure where this date was derived from as the documentation all points to the horse being born in 1997. As passports were often copied or drafted from the original vaccination [certificate] I can only presume that there was a mistake at this stage.....I feel that the client has in no way tried to deceive you in this case and was unaware of the age put on the passport.'

Lloyd's feels the passport is the most persuasive evidence available. However, in this case, there is a discrepancy between the information recorded on various 'official' documents, each of which might reasonably be regarded as persuasive evidence in its own right as to the horse's birth date. And indeed, in the period before passports were required, I understand that documents such as those provided by Mrs E would have been used and relied upon in identifying the age of a horse.

I also note an internal email from Lloyd's on its business file, which refers to investigations carried out into Mrs E's claim. Lloyd's made enquiries with the Department for Environment Food and Rural Affairs (DEFRA) and was advised by that department:

'Information on the age of the horse is supplied by the owner when they apply for a horse passport. It is unlikely therefore that a passport would on its [sic] own confirm the age of a horse...'

Given the available evidence, I consider that on balance administrative errors have resulted in the inconsistencies as to the year of birth as recorded on different documents. In my view, it is more likely than not that the sale agreement and the vaccination certificate which Mrs E first received when she purchased the horse record the correct year – 1997. Errors in transcription then meant that the vetting certificate, and in turn the passport, incorrectly recorded the year as 1996.

Lloyd's has also argued that in 2005 Mrs E disclosed the date of birth as being 1998. However, no recording of the relevant phone conversation has been provided. Lloyd's has explained that at that time Mrs E was wanting to renew her policy, and the business was itself transferring to a new fully computerised system. That meant that Lloyd's did not have immediate access to Mrs E's policy details from when it was first taken out in 2002, or from subsequent renewals – nor was it apparent to Lloyd's at that time that the policy had not in fact renewed the previous year. A new policy was taken out, and details, including the year of birth, had to be re-taken. Lloyd's say that when asked, Mrs E replied, with some hesitation, that the horse was between seven and seven and a half years old. Both Lloyd's and Mrs E then agreed to record the date of birth as 1998. It appears to me that, under the circumstances, this was accepted by both as an approximation, and there is no evidence that an actual month of birth was mentioned. A policy schedule was sent to Mrs E after the call, and every year thereafter, noting the date of birth as 1998.

Under the circumstances, I am not persuaded that there was any deliberate intent on Mrs E's part to mislead Lloyd's about the year of birth. At the time, there was no obvious benefit to her from disclosing the incorrect date – and indeed, my understanding is that she had rung to renew her policy, not expecting to have to take out a new policy and provide again all the basic necessary information. I also consider that Lloyd's did, in any case, have the required information available to it – although it may not have been readily accessible because of the transfer of systems (but Mrs E cannot be held responsible for that). This is because Lloyd's has since told us that basic notes from the earlier manual system suggest that the horse was aged six in 2002, although I have not seen those notes, and do not know how precise they are (as there is no reference that I have seen to the actual month of birth, which could impact on whether it was in fact 15 at its death). So, I do not consider that Mrs E can reasonably be held responsible for incorrect information which may have been provided at that time, and which was not subsequently noticed or corrected by her in later renewal documentation, when Lloyd's was itself in a position to check its own records.

I also consider that, taken together, the telephone call which produced a putative 'agreed' birth year of 1998, Lloyd's notes which suggest the horse was 6 in 2002, and the inconsistencies in the other transcribed and recorded dates, serve to confirm the scope for imprecision and error in the recording of the year of birth. I am therefore satisfied that on balance it is reasonable to rely on the documentation first received and provided by Mrs E (rather than the passport) as evidence of the birth year – and in particular, the sale agreement which specifically identifies this as being January 1997. On this basis, the horse was under 15 years of age at its death and so the terms of the 'young horse' policy which Mrs E held at the time should apply to her claim.

my final decision

For the reasons above, it is my final decision that I uphold Mrs E's complaint.

I require The Society of Lloyd's to settle Mrs E's claim in line with the remaining terms and conditions of the 'young horse' policy applicable at the time the claim was made, and to pay interest on the settlement amount at the rate of 8% simple per annum (less tax, if properly deductible) from the date of the claim to the date of settlement.

Helen Moye
ombudsman