

complaint

In March 2012 I issued a final decision in which I directed Legal & General Insurance Limited (hereafter referred to as L&G) to calculate whether a loss had been suffered due to its poor handling of a subsidence claim of Mrs D's late mother's property. Mrs D's complaint relates to the amount that has been calculated as the loss following the final decision.

background

I issued a final decision in March 2012 which directed L&G to

'...pay the following compensation of A minus B (if A is greater than B), plus interest at 8% simple per annum on this sum from the January 2008 to the date of settlement, where:

- A. The value of the property in January 2008 (allowing time for the property to be marketed and sold) provided by a suitably qualified local conveyancing surveyor. This assessment should be based on the value of the property in a repaired state, but acknowledging the effect that a subsidence claim would have had on the value.*
- B. The actual sale price of the late [Mrs D's mother's] property when sold in April 2009 (which I understand was £450,000).'*

Following acceptance of the decision four surveyors were appointed by L&G to determine the value of the property in January 2008. The average of these valuations gave a sale value in January 2008 of £496,250, from which the £450,000 sale value was deducted. This gave a settlement figure of £46,250, to which interest of £12,975.34 was added.

Mrs D remained unhappy with this offer and a final response was subsequently issued on 13 June 2012 in which L&G explained *"there was no requirement in the FOS decision for any previous offer made in relation to the property to be taken into account,"* it was, therefore, of the opinion that the offer of £59,225.34 was *"in accordance with standard industry practice for a diminution in value claim settlement."*

Following the final response, Mrs D provided L&G with her own surveyor's report valuing the property to be £600,000. However, L&G reiterated its stance and Mrs D referred her complaint to this service for an independent review.

Since Mrs D referred her complaint to this service, she has accepted the sum of £59,225.34 as an interim payment without prejudice.

The complaint was considered by one of our adjudicators, who did not recommend that the complaint be upheld. She was of the opinion that the offer made by L&G was fair in the circumstances. Although she noted that the valuations provided varied in detail and quantum, she was of the view that taking an average of the valuations was fair.

As Mrs D was unhappy with the adjudicator's view, she requested her complaint be referred to an ombudsman for 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.

I note that it has been stated that the property was marketed in January 2008 and an offer of £590,000 was received shortly after, but that the sale fell through because the certificate of structural adequacy was not available. To consider this information in relation to the settlement that L&G should make, I would need to see contemporaneous evidence of the offer and the reasons for the withdrawal of the offer. As such evidence has not been provided, I am unable to factor this information into my consideration of the complaint settlement.

It does appear that following Mrs D accepting my final decision that L&G attempted to follow the instructions contained therein as it requested four firms of surveyors to provide hypothetical valuations for the property in question. I am also satisfied that it was not unreasonable for L&G, having received a range of valuations, to have taken an average of those figures for the purposes of making settlement to Mrs D.

Mrs D's surveyor has been critical of the other surveyor's valuations for various reasons.

However, I am not persuaded that the basis of the valuations obtained by L&G was unreasonable or that they were '*negligent*'. Furthermore, I am not persuaded that it would be appropriate for the valuation provided by Mrs D's surveyor to be taken into account when calculating redress, as I am not persuaded that it was the most objective view given the above detailed offer appears to have been taken into account and its comments regarding the previous subsidence of the property.

Mrs D's surveyor commented that our adjudicator was '*obsessed with the word subsidence and (took) no account of the fact that the cost of the remedial works was extremely small.*' I confirmed in my earlier decision that the effect that a subsidence claim would have had on the value of the property *should* be taken into account when the surveyor assessed the hypothetical sale value; I do not consider that it was inappropriate for the adjudicator to repeat this requirement when discussing the valuations.

my final decision

My final decision is that I do not uphold this complaint and I make no award against Legal & General Insurance Limited.

Derry Baxter
ombudsman