

complaint

Mr L and Ms L have complained about the fact that the Society of Lloyd's ("Lloyd's") has removed subsidence cover from their buildings insurance policy.

background

Mr L and Ms L made a claim for subsidence damage in 2001 as cracks were appearing in their property. Lloyd's appointed a structural engineer and a loss adjuster who investigated and monitored the property. Eventually it was decided to underpin part of the property. The claim was closed in 2010 when, after a long period of monitoring, the loss adjuster considered the property to be stable.

However, in 2011 more cracks appeared. At first these were considered to be the result of normal expansion and contraction after the repair works. However the cracks became worse and Lloyd's treated it as a new claim. Lloyd's said that the damage had been caused by new shrubs planted after the first claim had been finished. It thought this wasn't related to the earlier damage and so two claims were recorded.

The offending plants were removed and the cracks repaired.

At renewal, Lloyd's offered cover for the following year but not including cover for subsidence.

Mr L and Ms L thought this was unfair, especially since once again the property was considered to be stable. Since the insurance was renewed in July 2014 Mr L and Ms L say they've been unable to obtain suitable insurance cover for subsidence due to their previous claims.

Lloyd's said the decision not to offer subsidence cover was due to the claims history and the cost of the claims. Lloyd's also said it was entitled to exercise its commercial judgement.

Our adjudicator thought Lloyd's should reinstate subsidence cover and charge the premium applicable for this cover from the date cover is reinstated. He also thought Lloyd's should pay Mr L and Ms L £350 for the trouble and upset it had caused them.

Lloyd's offered to appoint an engineer of Mr L and Ms L's choice to carry out a structural survey to ensure the property was stable with a view to Mr L and Ms L then being able to present the report to another insurer in order to obtain subsidence cover. Since that wasn't accepted and Lloyd's didn't agree with our adjudicator, the matter's been referred to me.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

In this case Lloyd's told Mr L and Ms L that it had taken into consideration their claims history for subsidence and had collected data which determined the risk to their property and area from subsidence. It said that information indicated that their property was in a high risk area for subsidence and so a commercial decision was taken not to provide insurance cover for subsidence going forward. I note that according to the file supplied to us by Lloyd's it

says that this is a “one-off” case and it doesn’t have internal guidelines for this type of policy with more than one subsidence claim.

Ultimately, it’s each insurer’s decision as to what risks it’s prepared to cover and on what terms. However, when making these decisions insurers still have an overall obligation to treat their customers fairly. Lloyd’s will be aware that there is an industry-wide agreement which recommends that an insurer should continue to offer cover where there has been a subsidence claim because of the likely difficulties a policyholder will face in obtaining cover elsewhere after a subsidence claim has been made. This service considers this to be good industry practice even if an insurer isn’t a signatory to the industry agreement.

I can see that Mr L and Ms L couldn’t obtain subsidence cover elsewhere.

By refusing to continue to offer subsidence cover as it did, I’m not persuaded that Lloyd’s treated Mr L and Ms L fairly.

So I think Lloyd’s should reinstate Mr L and Ms L’s previous subsidence cover.

I agree with the adjudicator that Lloyds’s decision not to renew Mr L and Ms L’s’ subsidence cover would have caused them trouble and upset, particularly since it might well have made their house unsaleable at that time. I think £350 compensation would be appropriate for that.

It’s been pointed out to me by Lloyd’s that this complaint may be dismissed as it relates to its commercial judgement. That’s correct but I have a discretion to look at such issues and in this particular case I think it’s right that I should do so.

my final decision

I require Society of Lloyd’s to:

- reinstate subsidence cover from July 2014 and charge the premium applicable for this cover from the date cover is reinstated; and
- pay Mr L and Ms L compensation of £350 for the trouble and upset it’s caused them.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr L and Ms L to accept or reject my decision before 14 January 2016.

Elizabeth Grant
ombudsman