

The complaint

Mr W complained that his claim for damage caused by a leak in his overseas holiday home had been unfairly declined by Lloyd's Insurance Company SA ("Lloyds") under his overseas insurance policy. Mr W had representation for his complaint, but for ease and simplicity, I'll only refer to Mr W.

What happened

When Mr W's property was vacant, the water supplier changed his meter. It was normal for Mr W or his guests when leaving the property after a vacation to drain the water and turn it off, so ensuring the water pipes didn't burst over the colder months. When the meter was changed the supplier left the water supply to the property switched on.

Unfortunately, whilst the property was unoccupied, a slow leak occurred from a perished pipe leading to the washing machine sometime over the next three months. It was at this point when someone visited the property, identified the leak and a claim was made to Lloyds.

Generally, the holiday was used in the summer months and then left unoccupied over the Winter months, with local friends periodically checking the property was ok. However, due to Covid, ill health of the family and indeed by those who normally checked the property when it was unoccupied, the property was left empty for longer than normal.

Lloyds considered the claim but declined it as it said Mr W hadn't informed it of his change in circumstances (i.e., leaving the property vacant for a longer period). It shared with Mr W the policy terms where it shows it can refuse to pay a claim if changes aren't properly communicated. And whilst, it appreciated Mr W's circumstances, it told him he still had a duty to inform it of changes.

Mr W thinks his claim should be covered. He doesn't think the policy is fit for purpose or thinks it was mis-sold to him. He would like his claim covered.

Our investigator decided not to uphold the complaint. She didn't think there was evidence Mr W made a misrepresentation about his circumstances. However, she didn't think he'd complied with an endorsement on his policy, so she thought Lloyds had been fair to decline the claim. Mr W disagreed, so the case has been referred to an ombudsman.

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.

When an insurer sells a policy to the consumer it does so at a specified price (the premium), in return the consumer will get the benefit of insurance cover (protection) for when certain bad events may cause financial loss. It's unusual that a policy will cover everything, as frankly it would be too expensive. So, an insurer decides what risk it is willing to take for the premium it receives. It does this by limiting what events a consumer can claim for.

In the case of Lloyds' policy, one of the ways it limits liability and reduces its risk is by use of endorsements on the policy which sets out certain conditions that need to be met. Lloyds have described one of the endorsements on Mr W's policy, the Winter Warranty endorsement.

It states: "We will not be liable for loss or damage unless: (a) For the period of December to March inclusive the water supply is turned off at the mains and all fixed water tanks and pipes are drained (except central heating systems) should the Property be uninhabited (not lived in) for more than 48 hours. OR (b) For the period of December to March inclusive the Home of Holiday home is maintained at a minimum temperature of 10 degrees Celsius at all times".

This endorsement is one way where Lloyds has decided to limit its risk. Cold weather is often a trigger for issues such as water leaks and burst pipes, so by putting this condition on the policyholder it is reducing its risk. However, it's also effective for the consumer as well, as by complying with these conditions (which is mandatory) it gets a much lower premium to pay, but still enjoys the benefits of cover.

I've checked the policy schedule and the endorsements are clear. So, I think it's reasonable that Lloyds would expect Mr W to comply with these. In addition, the policy itself sets out other responsibilities for Mr W. It states *"you shall at all times take reasonable precautions necessary to avoid or reduce any loss"*.

I'm not persuaded Mr W did take enough precaution during the period the property was left unoccupied. In looking after a property whether you live there or not, the owner needs to ensure he's aware of the condition of that property and external factors that are impacting it. I would expect that any post related to the property would be accessible to Mr W or his appointed representative. So, I think Mr W should've received notification of the visit by the water company.

So, in the case of the visit by the water supplier, given the endorsement in the policy, I think it would've been prudent for Mr W to have checked or have someone check everything was in order after the visit. If he had, he would've known the water had been switched on. And by it being switched on, Mr W was no longer complying with the endorsement on the policy. If Mr W or his representatives don't take responsibility for meeting the owner's obligations in the policy, then I'm not sure who would be responsible.

Therefore, whilst I appreciate it is an unfortunate situation. I don't think it would be fair to ask Lloyds to cover the claim. At least three months passed without the property being checked, so I don't think Mr W took reasonable precaution to prevent loss. And as the policy didn't cover this situation due to the endorsement, I don't uphold this complaint.

I know Mr W has suggested the policy was mis-sold and not fit for purpose. However, I haven't seen any evidence to support this. I think the policy terms are clear and the responsibilities on the policyholder are fair. I think Lloyds could've been clearer that it would've rejected the claim anyway due to the endorsement rather than initially talking about a misrepresentation. However, I think this was a red herring and irrelevant to the validity of the claim.

My final decision

My final decision is that I don't uphold this complaint. I don't require Lloyd's Insurance Company SA to do anymore.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 24 October 2024.

Pete Averill
Ombudsman