

Insurer Response to Modern Methods of Construction – The Issues

Building Insurance

The Insurance Act of 2015 clarified how a policy should be underwritten and set out the remedies of failure to do so. In order to help avoid an insurer refusing a claim on the basis of non-disclosure The Act introduced the concept of a 'Fair Presentation of Risk'. In effect it increased the onus on both the insurer and owner/managing agent to carry out the necessary investigations in order to allow underwriters to build a quote reflective of the true risk presented.

This has many benefits, however, it also adds in an element of what the owner/managing agent ought to know. There are simple salient requirements such as the claims history but this extends to the construction details of the property which are often not immediately obvious.

Façade cladding is generally easily identifiable and its presence/specification needs to be disclosed to the insurer, regardless of the building height. Certain modern methods of construction are less easily identifiable but still require notification. A simple example of this is render that can either be applied directly onto masonry walls or applied directly onto insulation – in some cases expanded polystyrene. The risk profile (combustibility) of a building with render on block work is materially different to that of render applied to polystyrene and this needs to be disclosed. Simply not knowing is not considered a reasonable excuse meaning the insurer has the ability to refuse a claim directly related to the presence of, for example, the polystyrene.

As a result of these modern methods of construction, it is now common place for building insurers to provide quotes with a caveat subject to there being no undeclared combustible. Therefore, without knowing the full construction details, cover is prejudiced.

If combustible materials have been discovered, subsequent to inception of the policy, it is not uncommon for insurers to seek to cancel cover or provide a deadline for the material to be removed.

In the case of cancellation of cover, there are a handful of specialist insurers that are prepared to cover such properties but the premiums can be high and the cover options are low.

In the event cover not being obtainable, leaseholders are potentially in breach of their mortgage requirements and additionally unable to borrow against their property to help pay for any remedial work. With the introduction of the EWS1 forms they are also potentially unable to sell their flat.

Cladding is not restricted to metal composite panels, it can include high pressure laminates, plastics, timber, insulated render.

Professional Indemnity Insurance

Managing agents and property owners are potentially unknowingly holding building insurance policies not fit for purpose.

Additionally it is becoming increasingly common for Professional Indemnity insurers to include cladding exclusion conditions in their policies. Whilst professional indemnity policies are not designed to cover ineffective primary policies, these exclusions are removing the little comfort the policyholder had.

As a result of these exclusions it is becoming increasingly harder to source suitably insured professionals that can offer testing and EWS services. This is therefore making it harder for managing agents and freeholders to fully establish the construction details of their buildings. Try they must, however, as the aforementioned issues are forcing them to do so.

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