

Flood insurance

Introduction

Since 2007 severe flooding from intense rain and tidal surges has caused unprecedented and widespread damage in the UK.

Flooding of rivers and streams (known as fluvial) and coastal or tidal flooding are familiar to us all. The increasingly heavy rainfall has now led to surface water flooding (known as pluvial) where rain water is unable to soak away and builds up on the surface. At the same time the underlying ground water level has risen in some areas and is unable to dissipate. Our sewers have not been designed to cope with these unprecedented flood water volumes and in severe cases infrastructures such as reservoirs, canals and sea defences are failing.

Flood risk insurance

The increased risk of flooding has led to problems in obtaining insurance against flood risk.

In an effort to solve this problem, the UK Government has created a not-for-profit flood fund which is known as Flood Re. This is a Government backed re-insurance scheme enabling insurers to continue to offer flood insurance on properties at risk of flooding.

Flood Re

Flood Re was launched in April 2016.

It should be noted however, that Flood Re is not going to solve all the problems:

- There are still many types of property, at risk of flooding, which will not benefit from Flood Re. These will be subject to market levels of premium and excess. They include:
 - all commercial property;
 - all property built since 1 January 2009;
 - all buy-to-let property where the landlord arranges the insurance;
 - most purpose built blocks of flats, or houses that have been converted into flats, (unless the cover is obtained by an individual leaseholder who lives in, or their family lives in, the property being insured); and
 - bed and breakfast premises paying business rates.

This means that properties considered to be at a significant risk of flooding that are not covered by Flood Re may still be uninsurable.

- Whilst houses in Band H for Council Tax in England can now obtain flood cover through Flood Re it will be at higher premiums to those charged through Flood Re for homes in lower bands.
- Flood Re will operate for a maximum of 25 years (so could, in theory, last for a shorter period). It is intended to be a transitional solution whilst people adjust to higher insurance costs and implement flood solutions.
- The price for flood insurance through Flood Re is set out in the Regulations and will rise/fall in line with the consumer price index.

Head Office
Heathervale House
2-4 Vale Avenue
Tunbridge Wells
Kent TN1 1DJ
T 01892 510000
F 01892 540170

Thames Gateway
Corinthian House
Galleon Boulevard
Crossways Business Park
Dartford
Kent DA2 6QE
T 01322 623700
F 01322 623701

Flood insurance

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How to assess the level of flood risk

Much information can be obtained free of charge from the Environment Agency and such bodies as the National Flood Forum. The Land Registry, for a fee, are also providing a flood risk indicator and commercial search agencies are producing an ever increasing range of flood maps, reports and explanations. Unfortunately any claim for damages for a misleading search report is likely to be difficult to pursue making such searches of limited value.

We recommend that you ask your building surveyor to advise you on the impact of flood risk and, if appropriate, seek advice from a flood risk assessment consultant.

Summary

Solicitors are not qualified to give advice on flood risk or interpret technical flood risk reports and so liaison between solicitors and surveyors is essential to ascertain those properties which are at potential risk.

We recommend that when considering buying or leasing a property as much information as possible about flooding should be gathered at the outset and in particular from sellers and landlords. Lenders will require that flood insurance, amongst other risks, is available and therefore before committing to the purchase or to taking a lease the terms on which insurance is available should be clarified with insurers.

Further information

This information sheet is not intended to be a substitute for specific advice and is for general guidance only. It is based upon our understanding of the legal position as at March 2019 and may be affected by subsequent changes in the law.

For more information please contact Sarah Easton on 01892 510000 or email at:

sarah.easton@ts-p.co.uk

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