DRN-4089476

The complaint

Mrs and Mr H complain about how Royal & Sun Alliance Insurance Limited settled a claim they made under their home insurance policy following an escape of water.

What happened

Mrs and Mr H held a home insurance policy, which is underwritten by Royal & Sun Alliance Insurance Ltd (RSA).

On around 10 January 2022, Mrs and Mr H noticed an escape of water around the front steps to their porch. They instructed their own contractor, which I'll call "A", to investigate the source of the leak and undertake repairs.

A attended Mrs and Mr H's property on 12 and 13 January 2022 to detect the leak and undertake repairs. A wasn't able to detect the source of the escape of water despite its investigations but observed increased water levels within the porch, downstairs toilet and entrance hall.

Mrs and Mr H stated that A recommended instructing a second contractor to perform camera testing. This took place on 17 January 2022. The second contractor thought there may be an issue with a pipe providing services to and from Mrs and Mr H's home and recommended removal of a proportion of the front steps to the property and some driveway paving to further investigate the source of the leak.

As a result of the second contractor's recommendation, Mrs and Mr H contacted RSA to report their claim. They say they contacted RSA during the week of 17 January 2022 but RSA says it wasn't contacted until 24 January 2022.

When Mrs and Mr H contacted RSA to notify their claim they requested help with the claim process as this wasn't something they were familiar with. RSA said it told Mrs and Mr H it would usually appoint its own contractors to undertake work. But as, Mrs and Mr H had already done that, prior to registering their claim, RSA said it told them it would review any invoices already paid in line with the policy terms. It said it told them that reinstatement or repairs that went beyond the repair of the damaged pipe would need to be pre-authorised.

The second contractor returned to Mrs and Mr H's property on 20 January to undertake the recommended work. Mrs and Mr H stated that they paid just under £8500 inclusive of VAT for the trace and access work and just over £17700 inclusive of VAT for the reinstatement works undertaken by A and the second contractor.
RSA appointed a surveyor, which I'll refer to as "B" to assist it in managing the claim. B attended Mrs and Mr H's property on 26 January 2022. It took photographs, made contemporaneous voice recordings and provided a report on the damage it observed to RSA. And it recommended that RSA appoint a loss adjuster to manage the claim.

Mrs and Mr H said that, just after B's visit to their property, they spoke with RSA's appointed loss adjuster who gave authority for them to use A to progress their claim. They say the loss

adjuster agreed to reimburse the costs they'd already incurred having seen images taken by B of the property during its site visit and its report. RSA dispute this.

When Mrs and Mr H provided RSA's loss adjuster with a copy of invoices they'd received from A, which totalled over £26000, it forwarded the invoices to a drainage expert "C". It asked C for an opinion on the work undertaken and validity of the trace and access claim.

On 17 March 2023, C validated Mrs and Mr H's trace and access claim and reported its opinion on the cost and scope of work undertaken by A to RSA. This report was compiled without a site visit and stated that the invoices paid by Mrs and Mr H were grossly excessive for the work that had been necessary in the trace and access claim. C recommended RSA settle the claim based on what it would have charged to undertake the trace and access and repair to the damaged pipe. And it said the settlement figure should be £963.67.

Based on C's report, RSA offered Mrs and Mr H £963.67 to settle their claim. But they were unhappy with the settlement offer and complained to RSA that the amount was unfair and disproportionate to the reinstatement works that had been necessary following what was, in their view, a complex escape of water.

On 18 May 2023, RSA issued its final response to Mrs and Mr H's complaint. It said it wasn't upholding the complaint because it thought the settlement offered had been fair and in line with the policy terms. So, it didn't think it had done anything wrong.

Mrs and Mr H were dissatisfied with how RSA was proposing to resolve their complaint. So, they referred their complaint to our service. Mrs and Mr H wanted RSA to reimburse the cost of the work they'd paid their contractor to undertake. And they told our service they'd spent a significant amount of time chasing up and discussing their claim, which had impacted their family life. They said they'd also had to rely on credit cards to fund the work.

Our investigator assessed the evidence provided and empathised with Mrs and Mr H. But they didn't recommend upholding this complaint. They thought RSA had acted fairly and settled Mrs and Mr H's claim in line with their policy terms. So, they didn't recommend it take any further action.

RSA accepted our investigator's view of this complaint, but Mrs and Mr H didn't agree. So, I've been asked to decide the fairest way to resolve this complaint.

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.

Our service assesses complaints independently within a fair and reasonable remit – we don't act for either a consumer or a business. And I want to assure Mrs and Mr H and RSA that, in considering this complaint, I thought very carefully about what happened here.

Where the information I've got is incomplete, unclear or contradictory, as some of it is here, I must base my decision on the balance of probabilities.

My role is to assess whether I think RSA made a mistake, or treated Mrs and Mr H unfairly, such that it needs to now put things right. I can see all parties have gone to some trouble to provide our service with some detailed points about this complaint. I've read everything they've sent us. But I hope they'll understand if I don't address every comment they've made in this decision. I intend to concentrate on what I consider is key to this complaint.

Here there's no dispute that there was an escape of water at Mrs and Mr H's property. But there's disagreement between them, RSA and its agent as to the correct outcome of the claim.

Mrs and Mr H's complaint to RSA is about the offer it made to settle their claim. This offer was based on the opinion and calculation C provided. The calculation included trace and access costs and the costs of repairing the damaged pipe which caused the escape of water. The calculation didn't include the cost of damage to Mrs and Mr H's property or any reinstatement work undertaken by A.

Mrs and Mr H appear to believe that more work was required to trace and access the leak that was acknowledged by C in its quote to RSA. I've therefore thought about whether the settlement offer was fair and reasonable in all the circumstances.

Mrs and Mr H's policy with RSA provides cover for trace and access. This covers the cost of finding the source of an escape of water and the policy states:

"If it's necessary to remove and replace any part of your buildings to find the sources of a water…leak from a heating or water system, we'll pay the cost. The most we'll pay is the trace and access limit shown on your policy schedule".

The policy schedule stipulates that the trace and access limit is £5000 per claim. And the policy goes on to explain that *"the cost of repairing the source of the leak is only covered if the damage was caused by damage covered under [the] policy"*.

As this is one claim, the most that RSA would be obliged to pay under the policy for trace and access work would be £5000. Under the trace and access part of Mrs and Mr H's policy, they wouldn't be covered for the cost of reinstatement or repair. This would only be covered under the policy if an insurable peril had caused the leak.

In this case, Mrs and Mr H instructed A to attend their property prior to contacting RSA to notify it of a claim. I recognise that Mrs and Mr H say they'd used A previously. But I'd expect them to have contacted RSA at the outset of the claim before instructing their own contractor. This would have enabled RSA to explain the claim process fully to Mrs and Mr H in terms of cost recovery before any costs were incurred. It could also have appointed its own contractors, and this would have meant it could have controlled costs.

Mrs and Mr H say they contacted RSA to report the claim during the week commencing 17 January 2022. They say this was their earliest opportunity to notify RSA of their claim. But I've listened to the call recording where Mrs and Mr H initially reported their claim. It's dated 24 January 2022. I'm satisfied this date is accurate and this was the first notification of the claim.

During Mrs and Mr H's telephone discussion with RSA on 24 January 2022, they said the escape of water had happened 2 weeks earlier. I think, on the balance of probabilities, that Mrs and Mr H could have notified RSA earlier of the escape of water.

During the first call, RSA's representative gave clear guidance on the claim process and stated its preference would be to appoint its own contractors. But it said that, as Mrs and Mr H had already appointed a company, it would consider any invoices presented. RSA didn't offer a commitment to pay the costs already incurred and informed Mrs and Mr H in clear terms that once the escape of water had been traced the pipe could be repaired but any work that went beyond that would have to be approved before being undertaken.

Mrs and Mr H have told our service that RSA's loss adjuster authorised them to proceed with the reinstatement work and agreed to cover the costs incurred. They say this was during a telephone call just after B's visit – although they can't recall the date or provide a recording of the call. RSA disputes what Mrs and Mr H say here.

In efforts to resolve this dispute, RSA has been asked to provide the recording of the call where authority for work was provided. It's told our service that, having checked its business records, there's no call where authority was given to Mrs and Mr H to proceed with the works undertaken by A.

RSA has also told our service that the 2 call recordings it's shared with us are the only calls it has recorded which are relevant to Mrs and Mr H's claim. I've listened carefully to each call recording and I'm sorry to disappoint Mrs and Mr H but there's no mention of authority for A to undertake work beyond the repair of the damaged pipe in either recording.

I recognise that Mrs and Mr H may believe the call, where they say authority was provided, might not have been disclosed by RSA deliberately to frustrate their claim. But I'm satisfied our service has made proper efforts to try and obtain all relevant call recordings and that we have RSA's complete business file. I haven't seen enough to suggest that call recordings are being withheld by RSA.

In assessing what most likely happened here, I think that if RSA's loss adjuster had given authority to Mrs and Mr H to proceed with repairs beyond the repair of the damaged pipe, there'd be a written endorsement in its business records, in addition to a call recording, confirming this.

As, I'm satisfied the full business records relating to this claim have been shared with our service by RSA, I'm afraid that the absence of a record supports RSA's argument that authority wasn't given to Mrs and Mr H in this case to instruct A to undertake the repair work it invoiced.

In addition, the evidence satisfies me that, by the time that Mrs and Mr H say they spoke with the loss adjuster, they'd already instructed A to undertake the work they're asking RSA to reimburse. I say this because there'd been several site visits by A to Mrs and Mr H's property by the time B visited their home, extensive excavation work had already been undertaken, and they say their discussion with the loss adjuster was afterwards. I think it's unlikely RSA would have given retrospective authority for work that had already been completed – particularly work that went beyond the repair of the damaged pipe.

It's possible that Mrs and Mr H may have misunderstood what was said to them at the outset of the claim. I say this because RSA told Mrs and Mr H it would review any invoices already paid in line with the policy terms. I can appreciate how this could have been interpreted as an insurer agreeing to reimburse invoices already paid to someone who's unfamiliar with the claim process. But it's not the same thing.

In considering whether the trace and access settlement offered to Mrs and Mr H's is fair and reasonable, I've looked at the terms of their policy to understand how cash settlements are dealt with by RSA where work has already been undertaken.

The policy outlines in clear, unambiguous language:

"Where repairs are carried out, the amount we'll pay will be either:

- *the cost of the work if it was carried out by our nominated contractor, or*
- *the cost of the work based on the most competitive estimate or tender you got from your*

nominated contractors.

We'll pay whichever's the lower amount."

So, if RSA offers Mrs and Mr H a cash settlement it's entitled to limit its cash settlement to the cost it would incur if it were to use its preferred supplier or tradesperson for example. And this is the case even if the maximum claim limit for trace and access is £5000 as it is here. So, the settlement offered can be less than that maximum claim limit or the cost Mrs and Mr H would incur if they were to use company of their choice – as happened here.

The invoices Mrs and Mr H have provided from A are considerably higher than the costs C quoted in this case. And this is why there's such a difference between the offer RSA made and what Mrs and Mr H would like it to pay.

In relation to the trace and access work, Mrs and Mr H stated that they paid just under £8500 inclusive of VAT. I've seen the leak detection survey report A provided to Mrs and Mr H. So, I'm aware of the work it undertook in relation to the trace and access part of the claim.

RSA has provided our service with a settlement breakdown, showing why Mrs and Mr H were offered £963.67 for their claim. This breakdown shows that, had C investigated the source of the leak, it would have charged RSA £337.55 plus VAT. It said this would have included an investigation of the leaking water supply pipe and a CCTV survey of the drains incorporating the front gully. Ostensibly, I'm satisfied that this is in line with the work undertaken by A for trace and access.

Mr H stated that they paid just over £17700 inclusive of VAT for the reinstatement works undertaken by A and the second contractor. But it's clear this went beyond the cost of repairing the damaged pipe. The invoices Mrs and Mr H shared don't itemise the work undertaken or explain why this work was necessary to detect the leak – as our service, and an insurer, would expect to see. The invoices refer, instead, to *"deposit for job"*, *"phase final for job"* and *"parts and materials"* with no specific information about the scope of work, why it was necessary or the cost of each step of the repair work.

I appreciate that Mrs and Mr H have attempted to obtain more detailed invoices from A and it's not their fault that hasn't been possible. But in the absence of itemised invoices, it's very difficult to understand why the work undertaken by A and the second contractor should be considered under a trace and access claim and how the costs became so high.

C, on the other hand, said it would also have charged RSA £465.51 plus VAT for the necessary repairs to the damaged pipe. I'm satisfied that this valuation has been based on images taken by B, its voice recordings and the content of its report. C has confirmed it would have charged RSA a total of £963.67 inclusive of VAT for all trace and access related works that were required under the claim.

Mrs and Mr H dispute the reliability of C's estimate. They've told our service C didn't attend their property before submitting its report to RSA and appear to think this renders its valuation and report questionable. But I don't agree; I'll explain why.

C was instructed after work had been undertaken by A. So, I'm not persuaded anything more would have been gained in C assessing this claim by it visiting Mrs and Mr H's home address. Prior to calculating the cost breakdown, C had access to A's invoices and the information B had provided to RSA. Having seen these documents, I think C was able to offer a fully informed opinion on the validity of a trace and access claim and its likely cost.

C's view was that the work undertaken and costed by A was grossly excessive. Its opinion was that the necessary works should have been limited to the installation of a new gully and a bend to connect this back up. And it raised questions over the necessity of rebuilding the front step, which it said wasn't part of the drainage repairs.

Mrs and Mr H have argued that rebuilding the front step was necessary work undertake by A. They say the step sustained damage as a result of the escape of water because it had to be removed to access the leak. But I haven't seen enough evidence to persuades me this was a necessary part of the claim.

Overall, it's difficult to understand how over £26000 was incurred in tracing the escape of water and preventing any further damage. It's likely that a large proportion of this cost involved reinstatement work, which I've already explained wasn't authorised by RSA. Given the significant cost difference, I'm persuaded C, and RSA, acted reasonably in questioning why the work undertaken by A was necessary trace and access work.

Based on the evidence I've seen, I'm satisfied that the work included in C's calculation is in line with the content of B's report, its voice recordings and the images it took of Mrs and Mr H's property. I'm therefore satisfied that the necessary work has been identified in C's settlement calculation for trace and access costings. And I've no reason to doubt that the work stipulated by C in its calculation appropriately reflects what it would have charged RSA had it been instructed to undertake the trace and access works and repair of the damaged pipe. So, I'm not persuaded the settlement offer was unfair or contrary to the policy terms.

I recognise that A charged Mrs and Mr H significantly more than the amount RSA offered to settle this claim. But as this appears to largely be reinstatement work, which Mrs and Mr H were told would have to be pre-authorised by RSA, I can't fairly conclude it should be responsible for A's invoices.

I can see that Mrs and Mr H asked our investigator to assist them in pursuing a complaint against A. But, as our investigator explained, A isn't a business that falls under our jurisdiction. So, we don't have the power to consider a complaint against A. Our investigator has offered some guidance to Mrs and Mr H on how they may be able to pursue any concerns they have about A, which I think was useful.

I recognise that RSA's cash settlement offer is frustrating for Mrs and Mr H. But in the overall circumstances of this complaint, I'm satisfied RSA has agreed to pay the cost it would have incurred had C traced the escape of water and undertaken the necessary repairs to prevent further damage. As it's offered to settle their claim in line with the terms of their insurance policy, I can't say RSA has done anything wrong in the approach it's taken here.

I appreciate that Mrs and Mr H will be disappointed with my decision, but there's nothing to persuade me that RSA has treated them unfairly or unreasonably. And I'm not persuaded there are any grounds for me to fairly and reasonably require RSA to change the settlement offer it's made here.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H and Mr H to accept or reject my decision before 30 August 2023.

Julie Mitchell

Ombudsman