

The complaint

Mr H and Mrs W complain about the handling and decline of their buildings insurance claim by Royal & Sun Alliance Insurance Limited ('RSA') and the service provided.

RSA are the underwriters (insurers) of this policy, some of this complaint concerns the actions of their appointed agents. As RSA accept they are accountable for the actions of their agents, in my decision, any reference to RSA should be interpreted as also covering the actions of their appointed agents.

Although this was a joint policy, in my decision I'll mainly refer to Mr H as he's been dealing with this complaint.

What happened

The background to this complaint is well known to both Mr H, Mrs W and RSA. In my decision, I'll focus mainly on giving the reasons for reaching the outcome that I have.

Mr H and Mrs W had a home insurance policy with RSA. In 2022, they made a claim against their policy following the discovery of an escape of water. RSA considered the claim but ultimately declined it. They said that the damage was caused not by a recent event/escape of water, but by a long standing issue.

Mr H raised a complaint about the claim decline and the service provided whilst RSA investigated the claim. RSA didn't uphold the complaint and as Mr H remained unhappy, he referred it to our Service for an independent review. Our Investigator recommended that the complaint be upheld, RSA settle the claim (plus 8% simple interest) and pay Mr H £250 for any distress or inconvenience caused by how they'd handled and investigated the claim.

RSA responded to say they didn't accept the recommendation and the complaint was then referred to me for a decision. I recently sent both parties a copy of my provisional, intended findings. As the deadline for responses has now passed, I've considered the complaint for a final decision.

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.

Although a number of issues have been raised, this decision only addresses those issues I consider to be materially relevant to this complaint. This isn't meant as a discourtesy to either party – it simply reflects the informal nature of our Service.

Mr H responded to my provisional decision, RSA did not. Mr H's response focused on his whereabouts around the time he says the second leak occurred. Whilst I thank him for responding, the further evidence provided (statements and a text message) doesn't materially affect the outcome I've reached. I say this because it's not in question that he was in the property around the start of May 2022. My ultimate conclusion was that, on balance,

RSA had fairly considered the claim before declining it.

Therefore I see no fair or reasonable reason to deviate from my earlier provisional findings and have included them below for reference.

The choice by RSA to not offer renewal terms won't be addressed by my decision. It is being considered under a different complaint reference with our Service. For clarity, my decision will address the claim decline and how RSA treated Mr H and Mrs W when considering the claim.

Have RSA fairly considered/investigated the claim before deciding to decline it?

In summary, RSA say the damage being claimed for occurred over time and wasn't as a result of a one off escape of water in 2022, as reported by Mr H. They pointed to previous damage claimed for in 2019 and the possibility that this damage stemmed from that loss event as the damage being claimed for seemed to affect very similar areas.

I've chosen to disregard the weight RSA have placed on the video interview with Mr H's daughter and I find she wasn't best placed to answer the questions asked of her - when it's clear Mr H is the primary user of the property. I will return to this point later in my decision.

Having carefully considered the rest of evidence, on balance, I find that RSA have fairly declined the claim. I'll explain why below.

The discovery of the damage

Mr H's has told us he visited the property in early May 2022 (1-3 May). He left the property and didn't return for over 50 days. The damage being claimed for was discovered by a close relative over 50 days after someone had last been in the property - on 25 June 2022, and a toilet was removed and pipes sealed on 27 June 2022.

I've considered credit card statements from May - July 2022. These show that the last relevant credit card transaction was on 1 May 2022.

The 2019 repairs

I've then considered the various statements provided by Mr H and compared what he's told us was completed in relation to the scope of works RSA had cash settled on in 2019. Mr H can't produce invoices to show he had the necessary repair works carried out following that loss event. This is at the heart of RSA's claim decline. We've asked Mr H how he had the works completed and he's said:

"Renovations to the property were finally completed in the Autumn of 2020. Payments for work were made in cash and receipts were not given. A new Glow Warm boiler was fitted in place of the existing boiler and the existing French doors were also replaced. All work was completed by the end of November 2020. Should you require evidence of cash withdrawals from my bank accounts I can supply this. Substantial withdrawals were made in September and October 2020."

And:

"I spent some days drying out the capet [sic] by treading towels and squeezing out. Once the wet carpet had been dried out the house was perfectly habitable and redecoration of the stained walls was carried out by family members in 2019 whilst on holiday in Eastbourne in a piecemeal fashion and finished off by me whilst living

alone in the house for long periods of time during the lockdowns of 2020.

The cost of materials would have been minimal but I am enclosing a list of credit card purchases made by me from local shops in Eastbourne from 2019 to 2022.... The work claimed for in the 2022 claim does not relate to the 2019 claim."

The scope of works from 2019, are in my opinion, much more extensive than the works undertaken by Mr H and his family.

I've also kept in mind that if the bulk of the work was carried out in 2019, that left little to be done in 2020 when Mr H says he was residing for longer periods of time. Mr H has pointed to large cash withdrawals in late 2020, but this wouldn't tally up with buying supplies for redecorating works if they'd largely, already taken place. I've also kept in mind that Mr H's family likely won't have been experts on redecorating and, for example, if stained walls were simply painted over without having sufficiently dried or been treated to prevent damp coming through then the problems will just have been covered over temporarily.

This point is particularly relevant here as when I compare the 2019 damage to the 2022 damage being claimed for, there are some striking similarities. In my provisional decision I included a picture of the 2019 and 2022 damage side by side. As final decisions are published and this property belongs to Mr H I've removed it from this, my final decision.

What stands out in the photos are the three 'marks' to the left of the lampshade in the first photo. When compared to the 2022 photo, it's clear that mould has begun to grow in those exact areas.

I've then considered what Mr H is able to evidence and statements do indeed show purchases made in the area where the property is, across 2019 and 2020. Mr H has produced evidence that he had a new boiler and French doors fitted in October and November 2020 and these were the final stages in his redecorating works.

I've no doubt at all that Mr H and his family used the property throughout the 2019- 2022 period. Various evidence such as credit card statements put Mr H in that area and text messages between his daughter and neighbour support that the house was being used.

This leaves the question: based on the available evidence have RSA unfairly declined this claim for the reasons they've given? Their position is:

"It is clear from the nature and extent of the damage along with the well-developed presence of mould, that this is not the result of a recent one-off event, but has been ongoing for a considerable period of time."

In summary, they say the proximate cause of the damage being claimed for here was not a second leak in 2022 - but ultimately stems from the 2019 leak.

On the other hand, Mr H has said that the proximate cause of the damage being claimed for was a one off, escape of water in early May 2022 and it caused the damage being claimed for over the next 50 or so days.

Having carefully considered the evidence, on balance, I find that RSA have fairly considered the claim before declining it. I won't be asking them to reconsider the claim or settle the invoices Mr H has presented.

The service provided by RSA

It's unfortunate that Mr H's daughter had a negative experience during her video interview. As outlined earlier, I don't believe she was best placed to deal with the claim enquiries. But I don't find that the service provided was poor to the extent that compensation would be fair, reasonable or appropriate for this reason (her experience).

I've also noted that our Investigator felt Mr H had been disadvantaged because reasonable adjustments hadn't been made. But it's not my role, or the role of this Service to decide whether RSA acted unlawfully or not (breached the Equality Act 2010). That would be a matter for the Courts.

My role is to decide what's fair and reasonable in the circumstances of this complaint. But when reaching that finding, I have taken a number of things into account - including relevant law and what we consider to have been good industry practice at the time. So, although it's for the Courts to say whether or not RSA breached the Equality Act 2010, I'm required to take the Equality Act 2010 into account - if it's relevant, amongst other things when deciding what is fair and reasonable in the circumstances of the complaint.

I agree with our Investigator that had it been Mr H interviewed (either remotely or in person), I'm confident he'd have given his version of events as presented when making the claim. So I don't find that's he lost out in terms of the claim outcome – even in a scenario where reasonable adjustments weren't made for him.

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 Mr H and Mrs W to accept or reject my decision before 28 December 2023.

Daniel O'Shea
Ombudsman