

The complaint

Ms C complains about how Royal & Sun Alliance Insurance Limited (“RSA”) handled a subsidence claim made on her home insurance policy. She said the scope of works was unfair and that RSA had caused avoidable delays.

Any reference to RSA includes the actions and comments of its agents.

What happened

The circumstances of this complaint are well known to both parties, so I’ve summarised events. Ms C has a home insurance policy which, at the time of her claim in May 2021, was underwritten by RSA.

Having noticed cracks in her property, Ms C made a subsidence claim which was accepted by RSA. In late 2021, vegetation implicated as causing the subsidence was removed. Following a period of level monitoring, and confirmation the soil had stabilised, RSA said the repairs could commence in November 2022. But Ms C says things didn’t progress, and unhappy with RSA’s handling of the claim she complained.

In January 2023 RSA issued a final response letter saying it’s usual for subsidence claims to take 12 to 18 months. It apologised that the repairs hadn’t started and paid £250 compensation to recognise a delay with replacing a glass door. It said if Ms C wanted to arrange the repairs herself it could provide a cash settlement.

Between January and August 2023, a back and forth occurred between Ms C and RSA about the scope of works and which damage was attributable to the subsidence. In January 2023, Ms C had instructed her own structural engineer to review the damage. The engineer concluded:

“From our inspection of this property, we can confirm that the cracks observed are structurally significant and were likely to be caused by the trees and their root influence on the Clay subsoil beneath the foundations. The Council trees at the front and the Willow tree have now been removed, which is, in our opinion, the correct course of action.”

With regards to the porch – an area of the property which has been in dispute - the engineer said:

“The front entrance porch has moved and distorted by such amount, that in our opinion, it is beyond repair and will require taking down and replacing with a new porch (of a similar size). This new porch should be founded on new 1.0metre deep new concrete strip foundations.”

In May 2023, RSA told Ms C that it had asked its loss adjuster to clarify the position with her as to the scope of works and approximate time scales for the repairs to be completed. Having not received this, Ms C says she asked the contractor instructed to carry out the repairs to draw up a schedule of works. This was shared with RSA, together with Ms C’s

engineer's report from June 2023 – when the engineer revisited her property. RSA subsequently attended Ms C's property saying as the contractor's schedule was considerably higher than the current claim reserves, and so, the repairs needed to be validated.

Following the reinspection of damage, RSA concluded the repairs would take approximately four months but said because the damage was widespread and the loss adjuster didn't consider it to be all claim related, it would need to be further reviewed. RSA attempted to book another inspection, but Ms C said the dates weren't convenient for her, and she had tired of RSA's handling of the claim.

Unhappy with how things had progressed, Ms C complained again, and RSA issued another final response letter in August 2023. It acknowledged there had been delays and so paid £1,000 compensation. But it said Ms C had contributed to these delays by not facilitating a visit from RSA in the summer of 2023. It also didn't consider itself to be responsible for the financial difficulties Ms C said occurred because of the delays in repairing her property. RSA shared with Ms C what it considered to be the final scope of repairs and said on receipt of the excess and her material choices, a contractor could be booked to start the repair. Ms C remained unhappy and so, asked this Service to look at her complaints.

An Investigator said this Service couldn't look at the January 2023 final response letter because Ms C brought it to this Service in July 2023 - more than six months after the date of the letter. Ms C accepted this. He did, however, consider events relating to the August 2023 final response letter. Whilst he acknowledged RSA's handling of the claim could have been better, he considered £1,000 compensation to be fair and reasonable in the circumstances.

Ms C disagreed and so, the complaint was passed to me. Ms C explained the repairs had been completed and she'd been given a certificate of completion. But she remained unhappy because the porch had been repaired and not rebuilt – something she'd previously raised with this Service and RSA.

I issued a provisional decision in which I said:

"What I've provisionally 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. I've also kept in mind RSA's responsibility as an insurer to handle claims promptly and fairly – as set out in the Insurance Conduct of Business Sourcebook (ICOBS). Having done so, I agree with the outcome our Investigator reached, but because I have also considered whether the scope of repairs was fair and reasonable, I'm giving both parties the opportunity to comment on this before I reach a final decision.

Scope of the repairs

I understand the repairs have now been completed, but Ms C has told this Service she remains unhappy about RSA's decision to repair her porch and not rebuild it. Given Ms C had complained to RSA about the scope of repairs – and this is acknowledged by RSA in its August 2023 final response letter – I'm satisfied this complaint point is within the scope of the complaint brought to this Service. I can, therefore, consider it as part of my decision. It's not in dispute there is damage to the porch, and RSA has accepted it's covered under the policy. To determine if RSA's decision to repair rather than rebuild the porch was fair, I've looked at the available evidence – including photographs by both parties depicting the damage to the porch.

Ms C's engineer said the porch needed to be rebuilt because it was distorted and had moved by such an extent that it was, in their opinion, "beyond repair". The engineer provided photographs which it said showed the porch had pulled away from the main house. Conversely, RSA's expert said the damage was "minimal". To show this RSA have provided photographs which it says show "no significant separation", and that the UPVC pillar and dwarf wall of the porch were level. The porch floor has been noted as being unlevel, but it has said this can be repaired.

Ultimately, this comes down to a difference in opinion between the parties' experts. From what I've seen, I'm satisfied RSA has sufficiently shown a repair was doable. Whilst Ms C's engineer has said the porch was "beyond repair", the explanation as to why this is, is very limited. RSA has on its face, shown the porch was level, excluding the floor, but that this could be repaired. And so, in principle, I'm not opposed to it having repaired the porch. The question is then whether the repair has been successful. I understand Ms C isn't happy with the repair – but that doesn't mean it isn't or won't be lasting and effective.

RSA will be aware that it needs to provide a lasting and effective repair – and so, if the repair is shown to have been ineffective and not lasting, Ms C can complain about this, and I'd expect RSA to resolve the problem. But as things stand, there's insufficient evidence to persuade me repairing the porch wasn't a fair and reasonable course of action, and so, I won't be directing RSA to take any further action in respect of this.

Delays

Ms C complains RSA caused avoidable delays by not getting on with the repairs when it said it would in November 2022. This matter was addressed by RSA in its final response dated August 2023.

RSA has accepted it caused some delays between November 2022 and August 2023, though it has said Ms C contributed to these by not facilitating a follow up visit from RSA in summer 2023. Its arguable Ms C did delay things at that point, but I also understand why she wasn't keen to have another visit from RSA given one had only happened a few days earlier and she was exasperated with how the claim had been handled at that point. She's also told us she was caring for a relative.

It's not entirely clear why repairs didn't commence in November 2022. RSA has said it's common for there to be delays and issues with validating the scope of works, but that doesn't excuse it from progressing a claim promptly. But in any event, RSA has accepted it caused delays, and even without knowing why these occurred, I can consider whether £1000 compensation is fair and reasonable in the circumstances.

I've considered this Service's guidance on distress and inconvenience, and having done so, I'm satisfied it fairly reflects the difficulties Ms C experienced during this time. I understand Ms C doesn't consider this adequate, particularly as she considers her inability to re-mortgage her property to be solely RSA's fault. But I'm not persuaded by this, and I'll explain why.

Ms C has told us she made an application to re-mortgage in November 2022 – around the same time the repairs were meant to commence. In February 2023 she was informed by her mortgage broker that her mortgage application had been unsuccessful because the property was deemed "unmortgageable" owing to the outstanding repairs and subsidence claim. Ms C says that if the repairs had been completed on time, she wouldn't have lost out on the lower mortgage rate. She says she's now in debt as a result of having to pay higher mortgage repayments and that this together with the claim has taken a significant toll on her mental health.

I don't underestimate the stress Ms C has been under. It's clear from what she's told us that this has been an immeasurably difficult time for her and continues to be owing to the increase in her mortgage payments. Whilst I accept the repairs were delayed, I have to keep in mind that even if they'd started on time in November 2022, the repairs were unlikely to have been completed in December 2022 when the valuer attended – or even by February 2023 when it appears the mortgage was formally declined.

I note that later, in September 2023, Ms C was informed the property had been deemed unsuitable for a mortgage because of the subsidence and ongoing claim. This suggests it wasn't the outstanding repairs which solely prevented her obtaining the mortgage, it was also because the property had been affected by subsidence – something RSA isn't responsible for. So, when I consider this, I'm not satisfied there's sufficient persuasive evidence to show RSA was solely responsible for her not obtaining the mortgage.

This isn't a decision I've made lightly but based on the information and evidence I currently have; I don't intend to direct RSA to take further action or increase the £1,000 compensation it has offered.

My provisional decision

Royal & Sun Alliance Insurance Limited has already made an offer to pay £1,000 to settle Ms C's complaint and I think this offer is fair in all the circumstances. So, my decision is that RSA should pay Ms C £1,000 compensation."

In response RSA said it had already paid Ms C the £1,000 compensation. Ms C also replied and in summary said she'd provided an email from the building society which she said clearly stated that if the subsidence work was completed it would have given her a mortgage.

As a result, she remains of the view that were it not for the delays with the repairs, she would have obtained a mortgage at a lower rate. And so, she says she should be compensated to reflect the difference in her mortgage payments.

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.

Having done so, I'm not departing from the findings set out in my provisional decision. I'd had sight of Ms C's evidence from the building society before issuing my decision, but I didn't consider it to persuasively support her position that were it not for the delays she would have obtained a lower mortgage rate. But for the avoidance of doubt, I'll address the specific emails Ms C says support her position.

Before I comment on the content of the emails, of note is that they were sent by a 'customer service adviser' and not someone at the building society who is responsible for making lending and risk-based decisions. So, it hasn't come from someone who has reviewed Ms C's specific circumstances and so, I don't consider it to hold sufficient weight.

Despite this, I note the adviser made generic comments about whether the building society would be prepared to lend to Ms C – notably saying:

"There is a process to follow and our mortgage advisor would look at your affordability together with all the usual mortgage checks and the underwriters would

look further at the valuer's comments regarding subsidence/structural damage."

In another email the advisor says:

"... if you feel it will be affordable and you are confident over your subsidence issue you can assume that these checks will be acceptable and therefore, we would be able to lend."

Whilst Ms C considers this email to confirm the building society would have lent to her had the repairs been completed on time, I'm not persuaded it does. I say this because I can't see that Ms C specifically asked: *"would you have lent to me if the repairs were completed in February 2023?"* Nor have I been provided with evidence to show the building society said "yes" in response to this specific question.

But in any event, as I said in my provisional decision, the repairs were due to take four months and so, even if they'd started and completed on time, this timeframe would have crossed over with the valuer's visit in December 2022 and the lender's decision to decline the mortgage in February 2023. Ms C hasn't disputed this. And so, I'm not persuaded I can reasonably hold RSA responsible for Ms C's increased mortgage payments.

RSA has said it's already paid Ms C the £1,000 compensation and so, I don't need to direct it to pay this. For these reasons and those set out in my provisional decision, I'm not upholding this complaint.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms C to accept or reject my decision before 30 May 2024.

Nicola Beakhust
Ombudsman