

The complaint

Mr S and Mrs S complain about Royal & Sun Alliance Insurance Limited's decision to decline a claim made under their home insurance policy.

What happened

The background to this complaint is well known to both parties, so I'll provide only a brief summary here.

Mr S and Mrs S have a home insurance policy underwritten by RSA which covers their property and its contents. They took out the policy in August 2021.

Before that, in January 2021, Mr S and Mrs S had noticed an issue with the wall separating their driveway from their neighbour's. This was due to a leak from a pipe which runs directly underneath the wall.

From April 2021, Mr S and Mrs S were in dispute with their water company about responsibility for repairs to the pipe. That dispute came to a conclusion in January 2023, when OFWAT determined that the water company weren't responsible for the necessary repairs to the pipe.

At that point – in January 2023 – Mr S and Mrs S made a claim to RSA and asked them to pay for the repairs to the pipe and wall.

RSA declined the claim. They said the damage had occurred prior to policy inception. That meant it wasn't covered under the terms of the policy. And they advised Mr S and Mrs S to speak to their previous insurer.

Mr S and Mrs S weren't happy with that. They said Mr S had called RSA when he bought the policy and told them about the on-going (at that time) dispute with the water company about the pipe. And they'd said he needn't declare anything about that in his application for cover, given that he'd not raised a claim with his previous insurer.

RSA responded to the complaint to say the policy terms were clear and the claim wouldn't be covered. They admitted their agent might have been clearer with Mr S during the calls and apologised for that. But they pointed out that the sale of the policy was non-advised and the terms were sent to Mr S before he confirmed his purchase.

Mr S and Mrs S weren't happy with that outcome and brought their complaint to us. Our investigator looked into it and didn't think RSA had done anything wrong.

Mr S and Mrs S disagreed and asked for a final decision from an ombudsman.

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.

There's no dispute here that the damage to Mr S and Mrs S's wall pre-dates their taking out the policy with RSA. According to Mr S, the damage was first noticed in January 2021 – and raised with the water company in April 2021. The policy was purchased in August 2021.

There's also no dispute about what the policy terms say. They say the policy won't cover damage that occurred prior to policy inception.

The terms are very clear. They're not unusual or onerous. And they were available to Mr S and Mrs S when they bought their policy. In short, if they'd read the terms, it would have been absolutely clear to Mr S and Mrs S that the damage to their wall would not be covered.

Insurance works like this. I believe there is a risk to my property or person. I ask an insurer to pay for any loss or damage should that risk become reality. The insurer makes a calculation about what to charge me for that service, based on the likelihood of the risk actually resulting in damage or loss. I then pay a premium which reflects that probability - and the cost of the loss or damage if it happens.

It makes no sense at all, bearing that in mind, to think you can take out insurance to cover an event causing loss or damage *after* that event has already occurred.

So, it's not surprising that most insurance policies explicitly state that pre-existing damage won't be covered. And that's perfectly fair, especially in circumstances like these where the policyholder (Mr S and Mrs S) were very much aware of the damage before the policy was taken out.

RSA are right to say that the sale of the policy was non-advised. Mr S rang to make some enquiries, but at no point did the agent say – or imply – that they were advising Mr S that the policy was suitable for his needs. The onus was still very clearly and very much on Mr S and Mrs S to check the policy terms and ensure that the policy was right for them.

As RSA said, the agent could have been clearer. They might have picked up the reason why Mr S mentioned the damage to the wall – and then made it clear it wouldn't be covered. But Mr S wasn't as clear as he could have been either. He never explicitly asked whether the damage to the wall would be covered. If he had, I've no doubt he'd have been told it wouldn't.

It was perfectly fair and reasonable then for RSA to suggest to Mr S and Mrs S, when they made their claim, that they should contact their previous insurer. Mr S originally told us that insurer had gone into liquidation. But the previous policy was in fact underwritten by a very large national insurer, which certainly hasn't gone into liquidation.

I think Mr S and Mrs S may have been referring to a broker or intermediary. But in any case, since our investigator issued her view in this case – and after Mr S asked for it to be referred to me for a final decision – Mr S has informed us that he has now raised the issue with his previous insurer.

Mr S says that nonetheless, RSA should return at least some part of the premiums he paid given that, in essence, he didn't have as much cover as he thought (that is, he wasn't covered for the damage to the wall).

I'm afraid I don't agree with that – largely for the reasons set out above. The policy terms are clear. They're not unusual and they are fair and reasonable. They were available to Mr S and Mrs S before they confirmed their purchase of the policy.

Since that point. Mr S and Mrs S have had all the cover they were entitled to expect – if

anything else had gone wrong due to an insured event, RSA would have paid out. So, it's not reasonable now to expect RSA to refund any part of the premiums Mr S and Mrs S have paid.

I have some sympathy with Mr S and Mrs S. Clearly they have a problem with the wall which was not of their making. And they've found it difficult to establish who – if anyone – is responsible and/or whether their insurance will cover them.

In other words, they've had a very unpleasant experience – and a degree of inconvenience - which they've done nothing to deserve. I can entirely understand their frustration about that situation. And I'm pleased they are now discussing the issue with their previous insurer.

However, I can't justifiably conclude that RSA have acted in any way unfairly or unreasonably towards Mr S and Mrs S when they sold the policy to them or when they declined the claim.

My final decision

For the reasons set out above, I don't uphold Mr S and Mrs S's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S and Mrs S to accept or reject my decision before 8 January 2024.

Neil Marshall
Ombudsman