

## **The complaint**

Mr G and Ms S complain about Royal & Sun Alliance 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 G and Ms S have a home insurance policy underwritten by RSA which covers their home and its contents, amongst other things.

They made a claim in November 2022 after they noticed water damage in and around their kitchen, which is single-storey and covered by a flat roof. They said the damage had been caused during a named storm which hit their area in early November 2022.

RSA sent a surveyor to assess the damage within a week or two of the claim being made.

Despite Mr G and Ms S chasing RSA to find out the outcome of their claim, it wasn't until around three months after the surveyor's visit that RSA told Mr G and Ms S that they were declining the claim.

RSA said there were no storm conditions at the relevant times, so the damage wasn't covered as it hadn't been caused by an insured event. They also suggested that the damage had in fact been caused by wear and tear and gradual deterioration in the flat roof above the kitchen.

Mr G and Ms S weren't happy with this and made a complaint to RSA.

RSA admitted that the service provided to Mr G and Ms S had been poor and they offered £100 in compensation for their trouble and upset. But they maintained that the decision to decline the claim had been correct.

Mr G and Ms S then brought their complaint to us. They want RSA to cover the cost of repairs to the flat roof. Those repairs have been completed now at a cost of over £6,000. They also wanted more compensation for their trouble and upset.

Our investigator looked into it and thought RSA had acted unfairly in dismissing the claim. They said there likely were storm conditions during the relevant period, which may have caused the damage to the flat roof.

So, they asked RSA to re-consider the claim on the assumption that there had in fact been a storm. But they thought the compensation offered to Mr G and Ms S had been fair and reasonable given the extent of the delays and poor service.

RSA disagreed and asked for a final decision from an ombudsman.

Because I disagreed with the outcome our investigator reached, I issued a provisional

decision. This allowed both RSA and Mr G and Ms S to provide further information or evidence and/or to comment on my thinking before I issued this, my final decision in this case.

### **My provisional decision**

In my provisional decision, I said:

“I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

#### *The compensation*

I understand that Mr G and Ms S had to chase RSA for progress on their claim. And that they would have been understandably stressed during the period the claim decision was pending. And I do think RSA took too long to decline the claim.

It was a complex claim and there was competing evidence and reports to consider, so I can’t say that RSA should have made their decision instantly their surveyor had provided their report. But it shouldn’t have taken three months – and Mr G and Ms S shouldn’t have had to chase for updates on progress.

Given the extent of the unnecessary and avoidable delays (two months at most) and the poor communication and service, I agree with our investigator that £100 is fair and reasonable compensation for Mr G and Ms S’s trouble and upset.

It’s not entirely clear to me whether this compensation has in fact been paid to Mr G and Ms S or whether it was offered but rejected. No doubt Mr G and Ms S or RSA can enlighten me on that point in response to this provisional decision.

If the compensation hadn’t yet been paid by the time we became involved, I will have to partly uphold the complaint and require RSA to pay it now.

#### *The cause of the damage*

Our investigator has explained our approach to the storm peril (or insured event) that almost all home insurance policies will cover. We look at whether there were weather conditions which might cause damage to an otherwise sound and well-maintained building. If there were, we’re likely to call that a “storm” and say that there was an insured peril.

This is more of an art than a science. We will look at wind speed and rainfall in the relevant period. But given that there isn’t a weather station on every corner, we will take into account any other evidence which might suggest more localised weather conditions.

We may also look at any evidence to suggest that a building was well-maintained and not suffering wear and tear. Any such evidence would support the idea that it must have been the weather alone that caused the damage.

If there were storm conditions, we then ask ourselves whether those conditions most likely caused the relevant damage or simply served to highlight pre-existing issues. As our investigator explained, there is some overlap between these two questions.

Evidence of wear and tear will certainly inform the second question – was it the storm

that was the principal cause of the damage? But it may also inform us when we consider whether there was a storm.

If a building is well-maintained and perfectly sound and weather conditions were very poor, we're more likely to say there must have been "storm" conditions – because otherwise, how did the damage occur?

In this case, the evidence suggests that it's a very borderline decision as to whether there was or was not a storm in the period preceding the claim being made.

In the weeks before the claim, one local weather station (around 6-8km from the property) records no wind speeds that would usually be considered a storm. Another station (around 12-14 km in the other direction) records wind speeds up to 47mph – which we would usually consider to be a storm.

Our investigator said there were two additional factors which caused them to conclude that the weather may reasonably be considered to have been severe enough to cause damage to an otherwise sound and well-maintained building.

One, there were Met Office warnings for the area, at the relevant time, relating to the arrival of a named storm.

Two, Mr G and Ms S had recently moved into their home and had a survey carried out in August 2022, prior to buying the property. That survey said the flat roof and the areas around it appeared to be in good condition.

And if that were indeed the case, then logically, it must have been the weather conditions in November that caused the damage. And so, there must have been a "storm" – weather conditions capable of causing damage to an otherwise sound and well-maintained building.

I agree that the Met Office warning carries some evidential weight. But taken alone, it's not completely persuasive. Weather warnings tell us what we might expect – understandably and for very good reasons - in the worst case scenario. They don't tell us what the weather actually was.

I also take a slightly different view on the survey report. Particularly when I consider its findings alongside the assessment report provided by RSA's loss adjuster.

The part of the house in question is one-storey high and extends out of the back of the house into the back garden. It's not clear whether it's a later extension or part of the original building, but that's of no real consequence.

It appears from the photographs I've seen that the flat roof is now essentially in two sections. Again, Mr G and Ms S will no doubt correct me if I've got the wrong impression. The part nearest the house is covered by a skylight set into the surrounding walls and edged by lead flashings. The furthest section is a flat roof covered with lead – again with flashings at the edge.

The survey carried out on Mr G and Ms S's behalf in August does indeed say the roof appears to be in good condition. However, the photographs of the flat roof are taken from a window in the main part of the house about five metres or more above the flat roof itself.

There's no suggestion the surveyor got any closer than that when assessing the

roof's condition.

Those photographs also show what appears to be a large (bathtub-sized) planter sitting in the middle of the lead roof section. The planter has significant vegetation growing out of it, so I assume it's full of soil or compost – and plants put there on purpose by the previous owner or tenant.

By the time RSA's surveyor inspects the property in November, the planter has gone – presumably taken by the previous owner or tenant. Where it sat, the lead roof is sagging in places and/or is clearly no longer draining properly towards the gutter at the far end on the building. The photographs taken at the time clearly show this.

RSA's surveyor notes that there is standing water pooling on the roof, damage to the lead and possibly also to the downpipe.

As is clear from their photographs, the previous surveyor had assessed the property during dry, bright weather in August. It's unsurprising perhaps that he didn't pick up any problems with pooling on the flat roof – or indeed any damage to the roof underneath the planter.

In their explanations to Mr G and Ms S about the decision to decline the claim, RSA pointed out that in their view there was no storm. They also – I assume they thought helpfully – pointed out the likely damage to the lead roof that was likely causing water to ingress into the property.

We asked Mr G and Ms S to provide an estimate or invoice from the roofer who carried out the repairs (at a cost of over £6,000) after the claim was declined.

They weren't able to provide a copy of either an invoice or an estimate. But the roofer did provide an email summarising the work that had been carried out. This says that the lead was removed and reinstalled, the boards underneath the lead were replaced entirely, the flashings were repaired and the surrounding brickwork repointed.

Although the roofer's summary doesn't specifically say why those repairs were needed – or, in other words, what the damage to those areas looked like before the repairs were carried out – it's reasonably clear that the lead roof needed significant work to return it to a decent state of repair.

Given the nature of those repairs, it seems very likely to me that they were necessary to restore the shape and angle of the flat lead roof – to avoid standing water and pooling – after damage caused (at least in part) by the heavy planter which had been sitting on the roof before Mr G and Ms S bought the property.

You wouldn't necessarily expect at least some (if not most) of those repairs to be carried out where a storm had caused brief and temporary damage to the roof causing water ingress over a short period of time.

In summary then, the weather records show adverse weather likely to be just short of what we'd consider a "storm". The Met Office warning is inconclusive, being exactly that – a warning of what might happen. And there is a logical and reasonable explanation – backed by the available evidence - of what might have caused the damage if there wasn't a storm.

Taking all of that into account – and unless I receive additional information or evidence in response to this provisional decision which persuades me to change my

mind - I'm minded to say that I can't justifiably conclude that RSA acted in any way unfairly or unreasonably in declining Mr G and Ms S's claim, given the available evidence."

So, in summary, I said that I was minded to part-uphold the complaint if the compensation RSA had offered hadn't yet been paid by the time the complaint was brought to us. But I was not minded to ask RSA to reconsider the claim.

### **The responses to my provisional decision**

RSA responded to my provisional decision to say that the £100 compensation *had* been paid to Mr G and Ms S before they brought their complaint to us. And they provided proof of that payment.

Mr G and Ms S provided further information and evidence. They sent copies of press articles covering the weather conditions at the relevant times. These report heavy rainfall and flooding in the area where Mr G and Ms S live. And they mention Met Office warnings for that area.

They also sent further comments made by their roofer, who said:

*"To whom it may concern, I received a call to attend [the address] to repair roof works which had been damaged due to a related storm (Claudio) which had recently passed."*

Mr G and Ms S also said that pooling of water on a flat roof after heavy rain isn't unusual.

They said the damage to the downpipe and lead noted by RSA's surveyor was consistent with storm damage.

They said their surveyor had access to – and had been out on – the flat roof and he'd raised no concerns about the planter.

And they said the roof has been constructed in 2015, of lead – and lead should last 20-30 years unless some unusual event caused it damage.

### **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.

I'll address the further information provided - and comments made - by Mr G and Ms S first.

The media articles provided by Mr G and Ms S confirm what we already knew about the weather at the relevant time.

It's not disputed that there was very heavy rainfall. The reports mention this and say there was flash-flooding in areas close to Mr G and Ms S's home. They also mention Met Office warnings of persistent heavy rain in the region.

There's little or no mention in the articles though of strong winds in that particular geographical area. Any mention of high winds relates to regions which are reasonably distant from Mr G and Ms S's home. And the Met Office warnings for Mr G and Ms S's area are about rainfall not winds.

As I say, the reports add little to our understanding of the weather conditions at the time.

There's no dispute there was very heavy rainfall in the area. The wind speeds recorded at the two local weather stations show the very highest wind speeds during the relevant period as being at around the cusp of what might be considered a storm (47mph).

Very heavy rainfall alone – in the absence of high winds – can conceivably cause damage to a previously well-maintained building, though it's not that likely – and it will be damage of particular types. It's not likely to cause the kind of damage reported to Mr and Ms S's roof.

The damage RSA's surveyor noted to the downpipe wouldn't usually occur as a result of a one-off deluge. As for the damage to the lead, it's extremely unlikely that heavy rain would cause the lead to have dents and dips.

And it's in those dips – which are where the planter was standing - that RSA's surveyor's photographs show the pooling water. This is not water standing on a consistent and entirely flat roof immediately after rainfall.

It's essentially puddles of water sitting in dips and undulations. And those dips and undulations match the siting of the planter. As I say, there's a clear explanation of why they are there - and I'm satisfied they were almost undoubtedly not caused by high winds and/or heavy rainfall.

Mr G and Ms S's surveyor may have gone onto the flat roof when he carried out his photographic survey, though if he did, he took no photographs of the roof closer than the one from the nearest window. If he did go onto the roof and did not mention the planter, move it or examine underneath it, that's not something for which RSA are responsible.

I take Mr G and Ms S's point about the likely useful lifetime of a lead roof. This particular lead roof though has not served its purpose for that length of time – hence the ingress of water into the kitchen.

And when I ask myself what unusual event might have caused that failure, I think it's more likely to have been the positioning on the roof of a heavy object – which clearly left the roof with a "footprint" - rather than a one-off bout of heavy rainfall with winds at a maximum of 47mph.

RSA's surveyor found no evidence of any damage which might have been caused to the roof by strong winds and which might have allowed water a route into the property. No lifted, detached or misplaced flashings. No signs of the roof itself having lifted, blown off or bent so as to allow water inside.

The roofer hasn't added much to the debate with his latest very brief comments. There's no explanation there of what exactly the damage he repaired looked like or why the repairs were necessary. Again, he doesn't mention lifted or displaced lead roofing or flashings. He simply says he attended after a storm and carried out some repairs (which his earlier email had listed).

So, in summary, I still have no persuasive evidence that there was damage caused to the roof by the weather conditions in the relevant timeframe. And it remains much more likely that the issues with the roof were caused by factors other than the one-off weather event.

In other words, the heavy rain accompanying Storm Claudio likely highlighted existing issues with the roof. On balance, it's unlikely that the heavy rainfall and winds at 47mph maximum caused damage to the roof which then allowed the water to enter the property.

I've not changed my mind about RSA's decision to decline the claim, which still appears to

be me to be fair and reasonable in light of the evidence available. And since RSA have now demonstrated that they paid the compensation they offered to Mr G and Ms S *before* their complaint was brought to us, I won't be upholding this complaint, either in full or in part.

### **My final decision**

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G and Ms S to accept or reject my decision before 10 November 2023.

Neil Marshall  
**Ombudsman**