DRN-2255703

The complaint

Ms P complains that Royal & Sun Alliance plc ("RSA") is responsible for poor service in connection with a home insurance policy.

What happened

Ms P had a policy branded with the name of a supermarket. RSA was the insurer responsible for dealing with claims under the buildings section of the policy.

In May 2019 Ms P's water supply company told her there was a leak, probably under her floor.

Ms P complains that RSA told her it would cover digging up the floor, fixing the leak and replacing the floor but – months after its contractors dug up the floor in September 2019 – RSA said it wouldn't cover replacement.

Ms P wrote a letter of complaint to RSA dated 6 January 2020. RSA didn't send a final response. Ms P brought her complaint to us on about 3 March 2020.

our investigator's opinion

Our investigator didn't recommend that the complaint should be upheld. She didn't think that RSA had acted unfairly by declining the claim as the policy didn't cover it.

She also thought that RSA compensated Ms P fairly by offering £100.00 in total for not calling her back several times and not being able to locate a relevant call recording.

my provisional decision

After considering all the evidence, I issued a provisional decision on this complaint to Ms P and to British Gas on 4 September 2020. I summarise my findings:

> I found RSA responsible for the actions of the leak detection company which Ms P reasonably believed to be authorised by RSA.

Subject to any further information from Ms P or from RSA, my provisional decision was that I was minded to uphold this complaint in part. I intended to direct Royal & Sun Alliance plc to pay Ms P (or cause the leak detection company to pay her) in addition to its offer of £100.00:

1. £1,500.00 for damage to her flooring; and

2. £200.00 for distress and inconvenience.

Ms P disagrees with the provisional decision. Her solicitors say, in summary, the following:

- Had she been told at the outset by her insurers that her policy did not cover reinstatement of her flooring, then Ms P would not have agreed to the drainage

company cutting through her flooring before further investigations were done by them with sound equipment.

- As a result of the fault of her insurers and the drainage company the flooring now requires to be replaced.

- Ms P has obtained a quote for the work for £3,510.00.

- As a matter of Scots Law, the insurers should be found liable for all of the losses sustained by Ms P flowing naturally and in consequence from the fault of the insurers and their drainage company.

- Ms P is seeking reimbursement in full for the cost to repair the flooring of £3,510.00 together with compensation for the distress and inconvenience which she has suffered.

- Given this matter has been ongoing for months and she has had to pursue the matter through her insurers and then through the Ombudsman, and that she has had temporary flooring in her kitchen for many months, a more reasonable figure for compensation would be in the region of £500.00.

RSA hasn't responded to the provisional 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.

The policy terms booklet included a section on home emergency cover, under which an insurance company other than RSA was responsible for dealing with claims. But the home emergency cover was an optional extra and I haven't seen a policy schedule showing that Ms P had such cover.

In any event, the Financial Ombudsman Service can only deal with a consumer complaint against one insurance company at a time. And I'm dealing with a complaint against RSA not the other insurance company. So I'm not concerned with the home emergency cover or its exclusion of the following:

> "*damage caused gaining necessary access to, or in reinstating the fabric of, your home*".

It's common ground that Ms P had buildings cover under which RSA was responsible for dealing with claims. That cover included damage caused by escape of water from a fixed pipe. But it excluded the following:

> "*The cost of removing, repairing or replacing …the home in which you live in order to locate the source of the escape of water*…"

So the buildings cover didn't cover tracing and accessing the source of a leak. And – in the absence of water damage to the floor – the buildings cover didn't cover repairing a floor that had been dug up to find and fix a leak.

It follows that RSA should've declined to help Ms P find and fix the leak and replace the flooring. But that's not what happened.

Its file shows that Ms P first called RSA for help on 22 May 2019. RSA hasn't provided a recording of that call. But it has provided recordings of calls on 11 and 13 June 2019. From those calls, and from its file, I don't find that RSA told Ms P at that time that she was covered.

But Ms P reported the problem as accurately as she could. She didn't report any water damage. So she was reporting a "trace and access" problem.

RSA instructed the leak detection company. From what RSA has said, the leak detection company had "delegated authority" from RSA.

The leak detection company instructed an "enabling" company to do the digging. One of those companies reported that in Ms P's dining area there was some duct tape on the oak flooring which had been laid (without thresholds) throughout the ground floor.

Ms P's summary and RSA's file show that there was concern about relaying the flooring.

The digging through part of the kitchen floor took place in September 2019. So RSA (including the leak detection company on its behalf) must've thought Ms P was covered for trace and access – and communicated that to her.

RSA has said this indoor work fixed the leak. But Ms P's summary says that it didn't. And I accept her statement that the leak detection company found and fixed the leak in mid-October – outside the house.

The leak detection company produced a scope of works document including re-flooring of the ground floor. The total – including some provisional sums - was over £21,000.00 including VAT. The leak detection company sought RSA's approval for the works. So I accept Ms P's statement that the company had led her to expect that RSA would replace her flooring.

It was only at that point that RSA involved a loss adjuster who pointed out that there had been no trace and access cover.

RSA didn't always return calls when it should have. And it couldn't find the recording of the call on 22 May 2019. But it paid £75.00 compensation and offered a further £25.00.

After Ms P's letter of complaint in early January, the rules required RSA to send a final response within eight weeks. It didn't send a final response in that period - or at all. But that didn't delay Ms P from bringing her complaint to us.

RSA's position is summarised as follows:

> "[the leak detection company] *carried out works to the customer property without checking her policy.*
> [the leak detection company] *have admitted their error and agreed to take all responsibility for rectifying the damage themselves.*
> *I have explained to the customer as the contractor who completed the uninsured trace and access work is responsible for any rectification of the damage.*
> *Finally* [the leak detection company] *have advised they will replace the hardwood flooring in the customers kitchen where trace and access was undertaken but have refused to replace the flooring throughout the ground floor*."

However, I find RSA responsible for the actions of the leak detection company which Ms P reasonably believed to be authorised by RSA.

Putting things right

I've thought about the most fair and reasonable way to try to put Ms P in the financial position she should've been in if RSA had said at the outset that she didn't have trace and access cover.

I don't find it likely that Ms P would've risked water damage and wasted water. So she would've had to pay another leak detection company to trace and access the leak. And unless that company found water damage, she would've had to pay to fill in any holes and repair any surface coverings.

I appreciate that tracing and accessing a leak sometimes involves digging multiple holes, some of which turn out not to reveal a leak.

But I keep in mind that Ms P was concerned about relaying the flooring. So – in the absence of trace and access cover - I find it likely that another leak detection company would've done more investigation and found the leak outside the house without digging up the kitchen floor.

I've looked at the detail of the leak detection company's scope of works including the rates for flooring. Even Ms P regards the figure of over £21,000.00 as too high. She has pointed out that the scope of works doesn't need to include removal of kitchen units.

More recently, Ms P has sent us a flooring company's quotation for £3,510.00. From what her solicitors have said, I find it likely that the quotation is for the whole of the ground floor.

I keep in mind that her flooring wasn't new. I've seen some photographs of its condition including areas away from the kitchen.

And – even if she had have had trace and access cover – I find it likely that a floor repair would've been limited to the kitchen only. I say that notwithstanding the previous absence of thresholds between the kitchen and other areas.

Weighing up all these factors and keeping in mind the extent of the loss I see as flowing naturally and in consequence from the fault of the drainage company, I find it fair and reasonable to direct RSA to pay £1,500.00 for damage to Ms P's flooring.

I consider that – by mishandling her claim – RSA caused Ms P unnecessary extra inconvenience and distress at an already difficult time for her. I find it fair and reasonable to direct RSA to pay her – in addition to its offer of £100.00 – a further £200.00 for distress and inconvenience.

My final decision

For the reasons I have explained, my final decision is that I uphold this complaint in part. I direct Royal & Sun Alliance plc to pay Ms P (or cause the leak detection company to pay her) in addition to its offer of £100.00:

1. £1,500.00 for damage to her flooring; and

2. £200.00 for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms P to accept or

reject my decision before 10 November 2020.

Christopher Gilbert
Ombudsman