

## **The complaint**

Mr B is unhappy about Royal & Sun Alliance Insurance Plc's handling and settlement of a subsidence claim under his home insurance policy.

I will refer to RSA throughout including when referring to representatives who have acted on its behalf in handling Mr B's claim.

## **What happened**

Mr B made a claim when he noticed "cracks and damp" in his property extension. RSA appointed experts to inspect and review the damage. Eventually after some lengthy delays RSA wrote to Mr B to decline his claim. It said regarding the subsidence claim that the foundations weren't sufficient and as this was excluded under the policy no claim would be met. In relation to the damp problem it suggested Mr B make a separate claim under the accidental damage extension. RSA accepted that there had been delays and slow service for this. It offered Mr B £200 as compensation. Unhappy with this Mr B made a complaint to this service.

Our investigator upheld the complaint. She pointed out that the building regulations RSA have used to decline the claim don't specify a required foundation depth. She said the damaged extension had stood the test of time as it was added before Mr B owned the property and had been built in the 1980s and no damage had shown until 2020. Our investigator said the cause of the damp issues are still unknown. She accepted Mr B's point that this hadn't been investigated fully and should be reconsidered along with the subsidence claim. She said that the claim had been declined unfairly and should be reconsidered. Our investigator said due to this, the delays involved, and the amount of time Mr B had spent dealing with the issues RSA should increase the compensation payment to £500.

RSA didn't accept this and asked for the complaint to be passed to an ombudsman 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.

Loss adjusters on behalf of RSA said, *"Unfortunately the foundations to the single storey extension are not of sufficient depth to cope with the site conditions."*

It continued *"The foundations of the extension do not comply with the requirements of the Building Regulations:*

*A1. (1) The building shall be so constructed that the combined dead, imposed and wind loads are sustained and transmitted to the ground*

*(a) Safely, and*

*(b) Without causing such deflection or deformation of any part of the building, or such movement of the ground, as will impair the stability of any part of another building."*

The regulations say *"E1. There should not be:*

*(a) Made ground or wide variation in type of subsoil within the loaded area, or*

*(b) Weaker type of soil at such a depth below the soil on which the foundation rests as could impair the stability of the structure."*

The details gathered by RSA regarding Mr B's property said *"the foundation are founded at a depth of 730mm below ground level, bearing onto 'Made Ground'"* RSA said the foundations didn't comply with the regulations and would need to go much deeper and said *"The minimum foundation depth for a traditional foundation should have been at least 2.0m; however, this would be required to be taken to the depth of competent ground which could be much deeper."*

RSA said the damage had been *"gradual and progressive....under the load of the building."*

Despite at that point not having dealt with the damp claim RSA said the nearby drainage *"could be affected by the load from the foundation and possibly crack."* It concluded *"The load of the building has caused defects to the drainage, which will accelerate the movement."* It doesn't appear from this that RSA considered the drains could be causing or in any way linked to the damage.

RSA ended by saying *"The insurance policy excludes damage caused by defective design/faulty workmanship and hence the policy would not operate in this instance."*

RSA accepted in other details of a report that the damage was subsidence and suggested this was caused by *"clay shrinkage"* or *"escape of water."* And there was a request for Mr B to remove a tree that was close by.

There's also been some debate about what type of foundations the property has. Whether it is strip foundations or a raft foundation. Mr B has reasonably asked the question that as part of the investigation RSA should have cleared this up. But RSA said It thinks there's strip foundations as it's too deep to be raft but either way it isn't deep enough, so it doesn't matter.

Regarding the damp issues RSA said the drainage was suffering wear and tear and the soakaway had failed as it had reached the end of its finite lifetime. It said this wasn't linked to the dampness as it wasn't in the same location.

Mr B said that all the properties in the street were on raft foundations, some had long standing extensions, and some were more recent, but they had been through building control and been approved. He was able to estimate that the extension at his property had been built around 1988. And the wider point Mr B made was that he'd made sure he took out a policy with upgraded cover to include subsidence. He felt why would you have a policy that doesn't then operate when you need it to, for a claim that appears to fall under the subsidence heading which is included in the policy. He wondered if the policy was ever suitable for this type of house. He didn't feel RSA had fully investigated the claims.

Mr B noted there was no drainage report carried out. He said there was a distinct possibility based on the evidence of his own experts that there was a leaking inspection chamber on his property, and RSA hadn't investigated this. Also, when having work done it was pointed out to Mr B by contractors not linked to the claim and not aware of what had gone before that the structure had sunk most in the far corner of the utility room. This was where the downpipes were for the guttering. Mr B said at this point the downpipe and soakaway had eventually been replaced under his second separate claim for accidental damage.

I think Mr B made valid and reasonable points. I didn't see any significant mention of monitoring at the property. It's clear that there were issues with the drains not functioning properly and potentially with Mr B's tree that he was asked to remove originally. There doesn't appear to be any consideration of these points when RSA claimed the damage was always going to occur due to defective foundations.

There isn't any stipulation about the depth of foundations as RSA has referred to with the building regulations and there's nothing to suggest the extension was outside the requirements of the building control requirements at the time it was constructed. It is hard to accept that a structure that has been in place for such a long period of time and has stood the test of time can now be declined. Even though RSA say this was always going to happen there should be a full investigation and claim consideration Mr B has requested.

Mr B said the problems with damp were never fully investigated either, but I suspect the later accidental damage claim picked up all of these issues. If not, then I think as part of the further investigation RSA should also investigate the damp issue too.

I think it was unfair and unreasonable for RSA to decline the claim without the full investigation of the subsidence along with the damp issue. It should reconsider and further investigate this claim in line with the rest of the policy terms and conditions.

RSA accepted that the service wasn't as Mr B should have been able to expect. It offered £200 as compensation for his distress and inconvenience. There were unacceptable delays, the communication was lacking, and RSA weren't proactive in trying to resolve the claim. Mr B had to take a huge amount of time to deal with the claim and there's clearly been an impact on him having to deal with these issues. I think £500 compensation for his distress and inconvenience is a reasonable outcome.

### **Putting things right**

- Reconsider and reinvestigate the subsidence and damp claim issues subject to the remaining policy terms and conditions.
- Pay £500 for Mr B's distress and inconvenience.

### **My final decision**

I uphold this complaint.

I require Royal & Sun Alliance Insurance Plc to:

- Reconsider and reinvestigate the subsidence and damp claim issues subject to the remaining policy terms and conditions.
- Pay £500 for Mr B's distress and inconvenience.

Royal & Sun Alliance Plc must pay the compensation within 28 days of the date on which we tell it Mr B accepts my final decision. If it pays later than this it must also pay interest on the compensation from the date of my final decision to the date of payment at 8% a year simple.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 14 July 2022.

John Quinlan  
**Ombudsman**