

The complaint

Mr and Mrs C complain about how Royal & Sun Alliance Insurance Limited (“RSA”) has handled and settled their claim for subsidence on their home insurance policy.

What happened

This claim has been ongoing for a number of years. And during that time many different contractors and parties have been involved. In order for me to explain my decision, it’s important to first establish the timeline of events throughout the claim. So for ease of reading I’ve laid this out first below.

Throughout I will refer to a number of different people, who I have anonymised to prevent identification on the publication of this decision. But for reference they are as follows:

N – the first loss adjuster appointed by RSA.

C – the second loss adjuster appointed by RSA.

G – the contract administrator of the JCT (Joint Tribunal Contract).

R – the contractor appointed by G, that went into liquidation in 2017.

L – the contractors who completed repairs after R went into liquidation.

S – RSA’s agent appointed to oversee claim management.

M – chartered engineer appointed by G.

2012

In June 2012 Mr and Mrs C first noticed cracks in their living room and contacted RSA. RSA appointed a loss adjuster – N, who attended the property and produced a report on the possible causation and further investigation required.

2013

N instructed an arboricultural and drainage report. As a result of this a number of trees were removed from around Mr and Mrs C’s property by a contractor appointed by RSA. Mr and Mrs C were unhappy with one of the trees in particular being removed which they challenged unsuccessfully. They were sent a letter from the contractor regarding their challenge which they found unnecessarily aggressive and distressing.

2014

In May 2014 a meeting took place at the property between Mr and Mrs C, RSA and L. It was noted that the property’s condition had deteriorated and hadn’t stabilised.

In June 2014 Mr and Mrs C were becoming very dissatisfied with the progress of the claim to date. They asked L if there was anyone who could help them deal with the claim. L put them in touch with a chartered surveyor – G. L subsequently asked G to prepare an independent report on the damage to the property on behalf of Mr and Mrs C.

In October 2014, Mr and Mrs C made a complaint to RSA. They felt the claim had made little progress and the cracking at their property was getting worse. They also weren't happy with how the monitoring had been conducted and about the aggressive letters sent to them regarding the tree removal. They asked that N were removed from the claim completely and said in their complaint letter to RSA:

'In the circumstances we would wish to appoint our own Chartered Surveyor and Chartered Engineer to carry out meaningful investigations to properly diagnose the causation of the serious structural movement to the building and prepare an appropriate scheme for remedial work.'

'Would you please confirm in early course that in all the unsatisfactory circumstances of this case that [N] will be dis-instructed and that Insurers will be agreeable to us appointing our own professional team at Insurer's costs including Contractors' investigations and our team can then report appropriately to Insurers seeking approval for remedial measures and superstructure repairs.'

Following the complaint RSA appointed S to take over the management of the claim on its behalf. In December 2014 a meeting took place at the property between Mr and Mrs C, S, G and G's appointed chartered engineer – M. Mr and Mrs C expressed their disappointment at how the claim had progressed and said RSA had now provided seven different engineers to attend their property which hadn't helped continuity of work.

2015

In May 2015 N was formally removed from the claim by RSA and was replaced by a new loss adjuster – C. Around this time S attended Mr and Mrs C's property again and noted the level of deterioration and agreed the claim hadn't been handled well and that compensation would be due. He also offered an apology from the CEO of N.

In July 2015 C produced a report that concluded the cause of the damage was heave that was likely caused by the previous tree removal.

In October 2015 another site meeting took place between C, S, G, M and Mr and Mrs C. C confirmed that underpinning was required to parts of the building. Subsequently C produced a report of the meeting that lists G and M as *'surveyor and engineer representing the customer'* and goes on to state: *'...it was agreed that [G] would take the role of Contract Administrator at a fee rate of 10% contract costs including all Engineering fees for [M].'*

Shortly after this, S wrote to Mr and Mrs C to confirm that RSA had accepted the claim for underpinning of part of the property. In an email to Mr and Mrs C he says:

'I have also agreed with [G] that he and [M] will take a lead role in the repair of your home in other words they will write the necessary schedule of repairs, obtain two tender prices, supervise works and certify satisfactory completion.'

'[C] will remain as my "eyes and ears" in the field and deal with any day to day loss adjusting and insurance matters.'

G subsequently wrote to C to confirm that he will be acting as the contract administrator for the property under a JCT (Joint Contracts Tribunal). This is a contract put in place to agree who is responsible, when entering into building work.

In November 2015 G produced a report for Mr and Mrs C detailing the necessary remedial work. The report describes Mr and Mrs C as 'the employer' and confirms G as the contract administrator. It also states: *'The Contract shall be a JCT Minor Building Works Agreement.'*

The same month a payment mandate from Mr C to RSA was signed by Mr and Mrs C. It stated: *'We confirm that insurers may issue payment to the contractor named above under the direction of [C] as a result of this insurance claim...'*

2016

In 2016 tendering for the works began and G obtained quotes from L, R and a third contractor RSA put forward. R provided the cheapest quote and RSA therefore asked G to proceed with them. Mr and Mrs C were unhappy with this as they had wanted to use L. This option was offered to them, but RSA said they would need to pay the difference between the two quotes. Mr and Mrs C had to decline as this wasn't affordable. R were appointed by G in April 2016.

In July 2016 the JCT contract was put in place with Mr and Mrs C listed as the employer, R as the contractor and G as the contract administrator. It was signed by G on behalf of Mr and Mrs C, witnessed by M. Mr and Mrs C have said they've never seen a copy of this document, nor were they aware of its existence.

Around this time Mr and Mrs C moved into alternative accommodation for six months while the work was completed. During this time piling of the foundations was completed which resulted in Mr and Mrs C's conservatory being completely demolished. C has said this was at their request as they intended to build an extension instead. However Mr and Mrs C have said this was done against their wishes.

They moved back into the property just before Christmas 2016 but the work was unfinished. They said there were no curtains and no phone connection. The work to the external walls of the house and the electrics was also not completed. Mr and Mrs C were also unhappy with the standard of work completed.

2017

In February 2017 G wrote to C to say R were going into liquidation. He said he would need to terminate the JCT agreement to ensure any further money wasn't paid directly to R, as this may result in it being wrongly attributed between sub-contractors by the liquidators. He said this may mean Mr and Mrs C wouldn't be able to get certificates of completion for the various works. In March 2017 the JCT was terminated.

RSA paid the final amount due to R - £61,674.25 - to Mr and Mrs C directly and asked for it to be stored in a separate bank account so it could be transferred to the liquidators to cover any money still owing. However it didn't take responsibility for the liquidators as R was working for Mr and Mrs C and not it.

In September 2017 Mr and Mrs C signed a form of acceptance stating: *'Subject to your approval and to the terms and conditions of the policy, I hereby agree to accept the sum of £61,674.25 in full; discharge and satisfaction of interim certificate No. 3 under the above claim number which occurred at [address].'*

2018

At the beginning of 2018 L were instructed by G to complete any unfinished work. RSA made payment to them directly of £47,252.36 in April 2018. RSA said that this was to cover

insurance related repairs that weren't completed by R and not the correction of any poor workmanship. It suggested that the cost of any errors that needed correcting should be deducted from the amount claimed by the liquidators.

In August 2018 C visited the property to finalise costs and subsequently directed RSA to make a final payment of £24,299.18 to Mr and Mrs C, which it agreed to. They said this covered work needed to correct poor workmanship by R, which wasn't covered under the policy. In the report compiled after the visit C stated:

'Previously, during the final meeting with Mr and Mrs C, they expressed their frustration with the claim. Whilst this has been partly due to R falling into liquidation, we have explained that it was their surveyor who project-managed and recommended this contractor so no fault could lie with RSA. However they have also expressed their frustration with events that occurred prior to our involvement and may be writing to you about this separately.'

In September 2018 C issued a certificate of structural adequacy to Mr and Mrs C.

However Mr and Mrs C were unhappy with the way the claim had progressed from the start and were concerned that they were now being chased by the liquidators of R for costs related to the claim. They didn't think it was fair that RSA were providing no support or help with this. They made a complaint to RSA, which it responded to in November 2019. In the final response RSA offered £4,000 compensation for poor service and £2,400 towards the costs of rebuilding the conservatory. But maintained that it had now paid the full and final settlement for the claim and had discharged its liability. And that it had no involvement with the R, so wasn't responsible for costs being chased by their liquidators.

Our investigator's opinion

When our investigator made contact with RSA it raised concerns about our jurisdiction to consider the complaint. It said that our applicable award limit was £150,000 due to the date of the complaint. It said it had already paid over £300,000 towards the claim so this service doesn't have the power to award anything further.

Our investigator considered this but didn't agree the complaint was out of the service's jurisdiction. However she agreed the award limit applied and therefore anything above this limit would only be a recommendation and wouldn't form part of a legally binding final decision, if one was issued. I don't agree with this but for the purposes of this decision, I do not consider I need to go into this any further.

Our investigator concluded that RSA hadn't treated Mr and Mrs C fairly. She thought G was acting with ostensible authority from RSA and therefore RSA hadn't acted fairly by taking no responsibility for the demands from the liquidators. She recommended RSA provide legal support for Mr and Mrs C when dealing with the liquidators. And she said it should pay their costs for instructing a quantity surveyor to deal with the liquidators to date.

She also thought RSA hadn't paid enough to settle the claim and recommended it pay an additional £15,939.40 for various additional repairs. Further, she recommended it pay for the cost of reinstalling Mr and Mrs C's conservatory, based on the lowest of three quotes they were to obtain.

RSA didn't agree with our investigator's opinion. It said as G was instructed by Mr and Mrs C, and it was G who appointed R, it had no involvement in the contract so had no responsibility in relation to the demands from the liquidators. It also said it had paid the final settlement to Mr and Mrs C so didn't agree any further amounts were due.

As agreement hasn't been reached, the matter has come to me to decide.

My provisional findings

In February 2022 I wrote to both sides with my provisional findings. Which were as follows:

"A large part of this complaint relates to the actions of R – the standard of the work they completed and the consequences Mr and Mrs C are now facing after they went into liquidation. RSA has said that R were working for Mr and Mrs C's representative as part of a contract that it was not involved in. However Mr and Mrs C have maintained that they weren't aware of the contract and wouldn't have entered into it if they had been aware.

In order to come to a decision on whether RSA has treated Mr and Mrs C fairly in the resolution of this complaint, I first need to consider the JCT contract and who instructed G and R.

There were a large number of different parties involved in this claim, but it's important to note that in this decision I am considering just the actions of RSA and its agents that it is responsible for.

The JCT contract

While the existence of the JCT contract isn't in dispute – as this has been provided as part of this complaint- Mr and Mrs C have maintained that they didn't instruct G, had no knowledge of the contract and had assumed G was working for RSA.

It's very difficult to determine exactly what was known, by who and at what time. But when facts are disputed I need to decide what's most likely based on the available evidence. And from what I've seen I think it's most likely that Mr and Mrs C weren't fully aware of G's instruction or at least the consequences of this instruction.

However I've also not seen any evidence to suggest that RSA misled Mr and Mrs C, or purposefully removed itself from the claim in order to avoid its responsibilities under the contract. It seems more likely that Mr and Mrs C were misled by G. So I don't agree that RSA were responsible for G or R's actions. I've explained my reasoning below.

In Mr and Mrs C's complaint letter to RSA in October 2014 they expressly stated that they wanted to appoint their own experts to conduct investigations and scope the works. As quoted earlier in this decision, but repeated below for clarity, they said:

'In the circumstances we would wish to appoint our own Chartered Surveyor and Chartered Engineer to carry out meaningful investigations to properly diagnoses the causation of the serious structural movement to the building and prepare an appropriate scheme for remedial work

Would you please confirm in early course that in all the unsatisfactory circumstances of this case that [N] will be dis-instructed and that Insurers will be agreeable to us appointing our own professional team at Insurer's costs including Contractors' investigations and our team can then report appropriately to Insurers seeking approval for remedial measures and superstructure repairs.'

At the time, S was leading the claim for RSA and he had identified that it hadn't been managed well up until that point. He agreed to Mr and Mrs C's request and G and M were both present at future site meetings after this.

It seems from S, and RSA's, point of view both G and M had been introduced as Mr and Mrs C's own 'professional team' as they had previously requested in their complaint. And that RSA's loss adjuster, C, would now take a 'back seat' role, of just ensuring the costs that fell within RSA's liability were paid.

This is confirmed by S's email to Mr and Mrs C in October 2015:

'I have also agreed with [G] that he and [M] will take a lead role in the repair of your home in other words they will write the necessary schedule of repairs, obtain two tender prices, supervise works and certify satisfactory completion.

[C] will remain as my "eyes and ears" in the field and deal with any day to day loss adjusting and insurance matters.'

So from what I've seen I think S, on behalf of RSA, agreed to Mrs and Mrs C's request to use their own experts in order to ensure the claim was moved on promptly due to the previous problems. And it seems that this was agreed on the assumption that all work would be completed by Mr and Mrs C's appointed contractor and project managed by G, on behalf of Mr and Mrs C. So I think it's most likely that RSA thought Mr and Mrs C had knowingly instructed their own experts as requested in their complaint letter.

Based on this, I'm satisfied that RSA acted in good faith to try and move the claim forward in a manner that was agreeable to Mr and Mrs C by allowing G to project manage the work on their behalf. And I have seen no evidence to suggest it acted dishonestly or to mislead Mr and Mrs C in relation to G's instruction.

It seems most likely that it was aware G was under Mr and Mrs C's instruction and based on the correspondence from them, assumed Mr and Mrs C were acting in full knowledge and understanding of this instruction. For this reason I don't think RSA has treated Mr and Mrs C unfairly in relation to the instruction of G and R, and I don't think it would be fair to hold it accountable for their actions.

Having said this, I also have little doubt that Mr and Mrs C have been mis-led during this claim. I have read and listened carefully to their account and I don't doubt the truth of what they say. They are lay people, and not insurance experts, so it's reasonable that they would assume the claim was being handled in the same way as other claims. And may not have realised the potential consequences of G's appointment, or possibly even that he was working for them rather than RSA. However in this decision I am considering only the actions of RSA and its appointed agents to decide if it acted fairly.

The JCT contract was between Mr and Mrs C and G and I've seen nothing to persuade me that RSA and its agents had any direct involvement in this contract. If G set this up without the knowledge of Mr and Mrs C, as they suggest, then I can see this has put them in a very difficult position at no fault of their own. However while Mr and Mrs C wouldn't be responsible for this, it also wouldn't be reasonable to hold RSA responsible for it either. As G was not acting as its agent and RSA was not privy to the agreement. I think the responsibility for putting the contract in place and explaining the terms and consequences lay with G.

I note Mr and Mrs C have said that G was introduced to them by one of RSA's agents, and therefore was recommended by someone working on RSA's behalf. I've considered this but I don't agree this has any bearing on RSA's responsibility for G.

From the correspondence on file, it seems Mr and Mrs C spoke to L about their frustrations with the claim in 2015. And L suggested they get an independent report to present to the insurers. They subsequently introduced Mr and Mrs C to G by email, in which they stated:

'They [Mr and Mrs C] basically are getting nowhere fast, and I have suggested that prior to a formal complaint to [N] and insurers they need a professional independent report to substantiate their position.'

I think the above shows L's introduction was quite separate from any work it had done on behalf of RSA, as the purpose was to produce an independent report in order to substantiate a complaint against it. So I don't agree it's reasonable to say that RSA are responsible for this introduction as L were acting outside of its responsibilities to RSA.

So in summary, I'm persuaded that RSA acted in good faith to fulfil what it thought Mr and Mrs C had requested by allowing G to act on their behalf. So I don't think RSA should take any further action in relation to the contract, nor do I think it is reasonable to hold it responsible for the consequences of the contract. This includes any action taken by the liquidators, including offering financial assistance to meet their demands.

I understand this will come as a big disappointment to Mr and Mrs C. And I want to assure them that while I don't think RSA are responsible for G or R's actions, this doesn't take away from the severity of the issues they face or the impact this has had on them. And while it isn't RSA's responsibility to assist with the liquidators, or pay Mr and Mrs C's legal costs they may wish to seek further advice from a legal professional to assist in their dealings with the liquidators going forward.

RSA handling of the claim

While I don't consider RSA responsible for the actions of G and R, and therefore can't consider the poor repairs carried out by them as part of this complaint, I can consider the handling of the claim by RSA and its agents. And from looking at the timeline of the claim, I agree it was handled very poorly. And this has significantly contributed to the distress and inconvenience Mr and Mrs C have suffered.

I've focussed my review on the first few years of the claim, up until it was suggested that G take over the work in 2015. This is because everything before this time was the full responsibility of RSA.

During this time, little progress was made on the claim. Numerous reports were instructed but as the lead engineer was replaced seven times, there was a clear lack of continuity that stunted any meaningful progress. RSA agreed first at a site visit at the beginning of 2014 that Mr and Mrs C's property had deteriorated. And in a subsequent visit around a year later, RSA's agent S expressed shock at the lack of progress that had been made and took action to replace the appointed loss adjuster. This shows that no meaningful progress took place in this time, and in fact Mr and Mrs C's property got worse in the first three years of the claim.

Also during this time, a number of trees were identified as the cause of the subsidence and removed. Not only did this cause Mr and Mrs C distress, as the company who carried out the removal sent them an unnecessarily aggressive letter, but it has also since been shown to have caused further problems and movement at the property. This was identified in C's report of 2015, referenced earlier in this decision, where heave was found to be the cause of further movement likely due to the tree removal. It is very difficult to accurately quantify exactly how much time or cost this added to the claim, but the development of heave certainly prolonged it and caused further damage. Therefore increasing the distress and inconvenience caused to Mr and Mrs C substantially, as well as the overall length and cost of the claim.

And it was after this poor experience of RSA's claim handling in the first few years that lead to Mr and Mrs C seeking help from an external expert. And while I feel Mr and Mrs C entering into the JCT with G and R is too remote to hold RSA responsible for it, I do think it's important to consider when looking at compensation. As the poor claim handling, and distress it caused, may go some way to explain Mr and Mrs C's decision in this regard.

Taking all this into consideration, I don't think RSA's offer of £4,000 is enough to compensate for the substantial distress and inconvenience it's poor handling of the claim has caused. And the additional time it has added to an already lengthy claim. Considering the impact, I think a more appropriate award would be £12,000 in total, inclusive of the £4,000 already paid. Since the decision has come to me, I've put this to RSA and it has agreed to pay a further £8,000 in recognition of the distress its poor handling has caused.

Settlement

Mr and Mrs C have said that they don't think RSA has paid enough to cover the insured works at their property.

This claim has been extremely complex, particularly when considering the costs. This is partly due to the number of parties involved - payment was made to G and R, who paid their own sub-contractors, and later directly to Mr and Mrs C. But also due to the fact Mr and Mrs C took the opportunity to have some private work completed by R, which meant not all work completed was covered under the insurance policy. This made it more difficult to separate out.

RSA appointed C to agree and arrange payment for the costs that were covered under the policy. The loss adjuster worked with G and R to ensure the payments that were made were suitable, met the liability of the policy and the correct works were scoped. RSA made the following payments:

*4 August 2016 - £20,981.48 (to R)
4 September 2016 - £35,361.30 (to R)
13 March 2017 - £61,674.25 (to Mr and Mrs C)
16 April 2018 - £56,702.83 (to L)
21 August 2018 -£24,299.18 (to Mr and Mrs C)*

It is important to note that as R weren't working for RSA it wasn't responsible for correcting any errors it made, however in spite of this the final payment of £24,299.18 was made to help rectify the damage that poor work that had been completed.

While Mr and Mrs C have said these amounts haven't covered the work needed, they've not provided anything to show that the work completed that was covered under the insurance policy, was greater than the amounts paid above. Instead they've just shown recent costs that they've paid to rectify problems at the property. But I've not seen enough to show that these problems weren't already covered in the amounts paid by RSA.

It is also of note that by paying the full costs of a contractor that hasn't been instructed by itself, including the professional fees of G, RSA were paying above what it is required to do under the policy terms. The policy states:

'We will pay the cost to us of repairing or replacing the damaged parts of the buildings including fees and related costs, less any excess'

So it is only required to pay the cost to it. Insurers have pre-agreed discounted rates with their own contractors which are usually less than the market rate. So it would have likely cost

RSA less to get the work completed using its own contractors than the amount paid to G for the works. And under the policy, it's only required to pay that amount to get the work completed.

RSA appointed C to oversee the scope of works and ensure payments were in line with the work that needed doing, so I'm satisfied it carried out a fair process when calculating the required settlement. And it has paid more than it was required to – partly by paying for the correction of some poor repairs and also by paying the full costs of work completed by R and G's fees, rather than just the amount it would have cost it.

I note Mr and Mrs C have cited the fact the liquidators are demanding very high amounts to cover the costs of the work completed by R. But this alone isn't enough to say that the amounts paid by RSA were insufficient to cover the insured work. This is part of a separate dispute between Mr and Mrs C and the liquidators.

So in the absence of any evidence to show that the amounts already paid by RSA were insufficient to cover the insured costs, I'm satisfied that RSA has followed a fair process in calculating what should be paid to meet its obligations under the policy. So I won't ask it to pay anything further.

Conservatory

While I think RSA has paid enough to cover its obligations under the policy, I understand Mr and Mrs C are particularly unhappy about the settlement offered with regards to their conservatory. So I wanted to address that directly.

R removed the conservatory completely when carrying out the work on the foundation piling. R and C have both said that Mr and Mrs C agreed to this as they planned to build an extension instead. However they've disputed this and said the conservatory was removed in order to get equipment in place, against their wishes.

RSA has said that in order to get the piling equipment in place it was agreed that a window would need to be removed. So while it hasn't accepted responsibility for the cost, it has offered £2,400 as a goodwill gesture to cover that cost.

As the piling work was carried out by a sub-contractor appointed by R, I agree that RSA isn't responsible for the cost of putting right any errors made by them as they weren't acting as RSA's agent. This includes the removal of the conservatory. And therefore whether the conservatory was incorrectly removed or not is a matter of dispute between Mr and Mrs C and the sub-contractor. So I don't think RSA are responsible for the cost of putting this right.

However as it has put Mr and Mrs C in a difficult position I think the goodwill gesture offered by RSA is fair in the circumstances. But I won't ask it to pay anything further in this regard.

Putting things right

Overall, I can see this has been an extremely distressing time for Mr and Mrs C and their family and it continues to put a strain on many areas of their life. And I don't wish to diminish this with the findings in my decision. However, I can only consider the actions of RSA in my deliberations, and make an award for distress caused specifically by its actions and not those of G, R or the liquidators.

For the reasons I've given, I don't find that RSA are responsible for the actions of G or those appointed by him. And it therefore wouldn't be fair to ask RSA to accept responsibility for the errors made by them.

However, I agree RSA has handled the claim extremely poorly. And I therefore intend to require it to pay a total of £12,000 compensation, inclusive of the £4,000 already paid.”

Response to my provisional decision

Mr and Mrs C didn't agree with my provisional findings. They provided a detailed response with a large number of attachments. I have summarised the points I consider to be the most relevant to my decision below.

- The main crux of Mr and Mrs C's argument is that they believe RSA appointed G and M to run the claim for it, for the following reasons:
 - the email correspondence between the parties proves that conversations about the work were largely between C and G, without their involvement.
 - Mr and Mrs C say S was too busy to take on the work at the time so RSA brought in G in order to project manage instead.
 - Email correspondence shows that RSA appointed G as he had to report to C who reported to S, who had the final sign off. So S, and therefore RSA, was in control of the work, not Mr and Mrs C.
 - R was chosen to carry out the work rather than L, which would have been their preferred choice.
 - Mr and Mrs C had no knowledge or sight of the JCT contract and didn't sign it. They also highlighted a discrepancy between the date of signing it and dates of emails from G about setting a contract up.
- The amounts they have paid for the claim exceed the amounts RSA have paid, so they don't agree that no more is due.
- Private works they had done have been overstated when considering the settlement amount as they just had the electrics re-wired and a few other small jobs.
- Mr and Mrs C didn't agree to their conservatory being demolished and have been left with the cost of rebuilding this which is unfair.
- RSA allowed R to be appointed without doing any due diligence on it.
- RSA didn't explain the roles of all the parties involved to them.
- The main basis of my provisional findings is the complaint email they sent in October 2014 when they were under a lot of pressure and stress.
- My provisional findings used language like 'I think' and 'it seems' which were just suppositions and not supported by evidence.
- I hadn't taken into account the extent of the impact the claim has had on Mr and Mrs C and their family when reaching my decision.

RSA responded to accept the decision. However it asked for me to clarify that my decision represents a full and final settlement for all matters relating to this complaint.

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.

It's clear from Mr and Mrs C's response to my provisional findings that they have taken some time putting together a response and providing as much evidence as they can. I appreciate the time taken and want to assure them that I've read and considered everything they've said and provided carefully. As this is an informal service, I've not responded to each and every point, instead I've focused on the ones which I consider are most relevant to the complaint.

The appointment of G and M

The crux of this complaint is around the appointment of G, M and subsequently their contractors. This is because the consequences of this appointment have been significant. G appointed R who carried out poor repairs on Mr and Mrs C's property, leaving them with substantial additional costs in order to rectify the poor work. And R's subsequent insolvency has led to their liquidators demanding money owed to R from Mr and Mrs C.

Mr and Mrs C have said that it's their firm belief that RSA appointed G without their knowledge and have then sought to push the responsibility onto them.

I've considered all the correspondence Mr and Mrs C have provided, and the points they've made, but I've not seen anything that persuades me that RSA had any involvement in the appointment of G or M.

A lot of the correspondence Mr and Mrs C have provided relates to the relationship between G, C and S. They've said that because G had to get sign off from C and S, this shows it was RSA that was dictating the work and that G was working for it.

As I said in my provisional findings, while RSA agreed to let Mr and Mrs C appoint their own expert, this didn't mean it would have no involvement in the claim. As it had accepted the insurance claim, it still maintained the responsibility of ensuring the work that was being completed fell within the policy liability. And for arranging payment for this work. For this reason, its agents had to retain some involvement with the claim. So while G took on the full project management and responsibility for the work – appointing contractors, arranging the work and identifying what needed to be done, G still had to obtain sign off from C and S to ensure the work was covered and would be paid for under the policy.

As I've quoted previously, S stated in his email of October 2015, when he agreed to Mr and Mrs C appointing their own expert '*[C] will remain as my "eyes and ears" in the field and deal with any day to day loss adjusting and insurance matters*'. This refers to the need for all costs and work to be signed off to ensure it falls within policy cover – which is the sole reason C continued to be involved in the claim. But this doesn't mean G was acting for RSA. Just that RSA were paying for the claim costs and needed to be sure they met its liability.

So the emails requiring sign off, and discussing payment with C and S don't persuade me that RSA had any involvement in their appointment.

In fact throughout these emails RSA refers to G as Mr and Mrs C's 'professional advisor' and the 'contract administrator'. And at no point in any email I've seen does it refer to G as having been appointed by RSA.

Mr and Mrs C have also said that the fact R were appointed, rather than their preferred contractor L, to do the work shows G wasn't acting under their instruction. As they went against their wishes. The reason for R's appointment was due to cost. R's quote was significantly more competitive than L's and because of this RSA agreed only to cover up to R's costs. As I've said above, RSA's role had remained only to sign off costs to meet policy liability – and this is an example of this role. As RSA agreed to the cheaper cost only, this

meant that payment would only be up to this amount, and this isn't unreasonable or unusual. In fact it is the reason why a tendering process is carried out for work – so the insurer can be sure that the appointed contractor's rates are competitive. So I don't agree this shows that RSA were instructing G. Instead it shows that RSA had a responsibility to regulate cost.

I note Mr and Mrs C have said they were advised by G that if they were to fund the difference in cost in order to secure L to do the work, then this would mean they were responsible for the work without any protection. And I agree this advice was inaccurate and unhelpful. However this is advice given by G, so it isn't something I can hold RSA responsible for.

Mr and Mrs C have said throughout this complaint that they had no knowledge of the JCT contract and hadn't seen it before coming to this service. And I don't consider this to be in dispute. However the complaint I am considering is against RSA. So in the first instance, it's for me to identify whether RSA has got anything wrong. In relation to the JCT contract and the appointment of G, I'd only be able to say RSA got something wrong if I'd found that it was responsible for G – so if G had acted as RSA's agent. But as I laid out in my provisional findings, and again above, I've not seen any evidence that this was the case. Instead the evidence I've seen has shown a request from Mr and Mrs C to appoint their own contractors that was agreed and accommodated by RSA. Followed by RSA remaining part of the claim for validation purposes only. I've seen nothing that shows RSA had any involvement in the appointment of G.

I know this claim has had a devastating impact on Mr and Mrs C's lives. They have been left in a very difficult position. And to them, the issue of who is responsible is less important. As they, understandably, just want the issues resolved. However this matter is critical for this service to determine. As I can only direct RSA to put things right where it, or its agents, have got something wrong. And here, while I agree Mr and Mrs C have been poorly treated, I've not found that G was working for RSA. Nor have I seen any evidence to suggest that RSA had involvement in their appointment. So for this reason I don't think that RSA are responsible for G's actions or the actions of those he appointed and I can't ask RSA to take any action in relation to this over and above what I have already recommended.

Settlement

Mr and Mrs C have said that they've paid more on the claim than RSA has paid towards it. They've provided a spreadsheet of their costs to date. And say this shows the settlement amounts paid by RSA were insufficient.

I've considered this but it doesn't change my position as outlined in my provisional findings. As I said, RSA was only responsible for the costs covered by the policy. And not any costs related to poor work carried out by R or any private work that isn't claim related. I note that Mr and Mrs C have said that the private work they had completed was minimal, however the work to rectify R's poor workmanship has been much more substantial. And while RSA paid for some of this, this is likely why Mr and Mrs C have paid more than they should have done.

But regardless, it isn't my role to decide which costs are claim related and which aren't. This is for RSA to decide as part of the claim. It's for me to assess whether it followed a fair process in order to determine this. I said in my provisional findings that I was satisfied RSA had followed a fair process to validate the work covered by the policy and the costs associated. And I've not seen anything that persuades me to depart from this decision.

Conservatory

Mr and Mrs C have provided evidence that they had not agreed to their conservatory being demolished. However this isn't something I've made a finding on. As this was carried out by a contractor appointed by R, RSA aren't responsible for the related costs. Therefore whether Mr and Mrs C agreed to the demolition or not, I still wouldn't agree that RSA should pay the costs of reinstatement. As I've found it isn't responsible for G, R or those they appointed.

RSA has offered a payment towards the cost of the conservatory as a goodwill gesture. Which is reasonable considering the difficult situation Mr and Mrs C are now in. However as I can't hold RSA accountable for G and those they appointed, I don't find it responsible for these costs. So I won't stand in its way of making the payment, however I won't require it to pay anything more.

Comments on the content of my provisional decision

I have considered Mr and Mrs C's comments about the basis of my decision resting heavily on their complaint letter written in October 2014, in which they indicated they'd like to appoint their own experts. They've said this isn't fair and as they were under a lot of stress and pressure when they wrote the email.

I appreciate my provisional decision referred to this email numerous times. This is because I needed to determine if RSA appointed G or if it was acting based on the understanding that he was appointed by Mr and Mrs C. And I consider this email to be relatively significant in these findings as it shows Mr and Mrs C expressed a wish to appoint someone independent to manage the claim, which goes some way to explain what happened next. However I want to assure Mr and Mrs C that this is not the only piece of evidence I have based my decision on. I've considered all correspondence throughout the whole claim when reaching my decision.

Mr and Mrs C have also expressed concern at my use of language, which makes my findings appear to be suppositions rather than on the basis of fact. When reaching a decision I have to weigh up opposing evidence from each side, in order to decide what's most likely, on the balance of probabilities. This means my conclusions are based on what I consider most likely happened, which is why I refer to 'what seems to be' and 'what I think'. However I've also been clear about the evidence I've based these conclusions on, so I hope this helps in the understanding of my reasoning.

RSA's responsibility

Mr and Mrs C have said that as their insurers, RSA had a responsibility to explain the consequences of the JCT contract with G. And that it should have done more to explain that to them.

As I've explained previously, from what I've seen I think it's most likely that RSA thought Mr and Mrs C were knowingly entering into a contract with G. And therefore it would be reasonable for it to assume that they had full understanding of the contract and the terms and consequences were explained by G and outlined in the conditions of the contract – as this would have been G's responsibility. However I accept it would have been helpful if RSA had done more to check that this was the case.

I don't think this alone is enough to fairly say RSA were responsible for the contract between Mr and Mrs C and G, and therefore the consequences that followed, but it is something I had taken into account when deciding a suitable compensation award.

Impact

Mr and Mrs C have described the devastating impact the claim has had on their lives. And it is very evident that it has been an incredibly trying time for them both. My decision doesn't seek to discredit or diminish this. I have considered the contribution RSA's actions have had on the impact they've experienced when deciding the compensation award. The award I outlined in my provisional decision is in the highest band of awards we make at this service. This is because I consider the impact of RSA's actions in the way it handled the claim to have caused Mr and Mrs C significant distress and inconvenience. As outlined in my provisional decision this based on RSA's handling of the claim that it was responsible for - largely within the first few years, before Mr and Mrs C's complaint letter of 2014 and the impact these actions had on the rest of the claim. As while I don't agree RSA can be held responsible for the actions of G and those they appointed, and therefore the consequences of these appointments, I agree that the parts of the claim it was responsible for, were handled badly. And for that, I agree significant compensation is due. . And on considering everything again, I am satisfied that an additional £8,000 compensation, bringing the total to £12,000 is fair in the circumstances.

RSA's comments on a full and final settlement

Our rules dictate that on issuing a final decision on this complaint, this service will not review the same complaint again. So it's reasonable that this decision represents the final answer to the complaint.

Putting things right

I understand Mr and Mrs C's strength of feeling about this case, due to the impact it has had on their lives. And I really do sympathise with the position they've now found themselves in at no fault of their own. However after considering everything, I've not seen reason to depart from the decision I outlined in my provisional findings, for the reasons I have described above. I will therefore require RSA to pay an additional £8,000 compensation to resolve this complaint.

My final decision

For the reasons I have given, I uphold Mr and Mrs C's complaint and require Royal & Sun Alliance Insurance Limited to pay them an additional £8,000 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C and Mrs C to accept or reject my decision before 25 April 2022.

Sophie Goodyear
Ombudsman