

The complaint

Mrs C and Mr C complain about Royal & Sun Alliance (RSA)'s handling of an ongoing escape of water claim made under their home insurance policy.

All references to RSA include its appointed agents.

What happened

The background to this complaint is well known to both parties, who've provided substantial submissions for our service to consider. So, what follows is a brief summary of the key events I find relevant to my decision.

- RSA previously voided Mr and Mrs C's policy and the complaint was referred to us. An ombudsman upheld the complaint and directed RSA to reinstate the policy and reconsider the escape of water claim.
- RSA then proceeded with the repairs to the property, but haven't paid any alternative accommodation (AA) expenses to Mr and Mrs C. So, they referred a further complaint to our service.
- Our investigator looked at everything and recommended the complaint be upheld. They concluded Mr and Mrs C were entitled to around 4 years' worth of AA in the circumstances. And they recommended RSA compensate Mr and Mrs C £2,500 for the distress and inconvenience caused.
- Upon appeal by RSA, our investigator revised their findings as Mr and Mrs C were unable to provide evidence they were planning to, or were able to end their short-term tenancy agreement earlier. So, our investigator concluded it wouldn't be reasonable for RSA to pay for the first six months of AA.

RSA didn't agree, in summary it said:

- There's not enough evidence to show Mr and Mrs C were going to return to the property in 2018 (around the time of the escape of water event). Rather, the evidence suggests Mr and Mrs C had been paying for two properties for some time with no financial detriment (supported by tenancy agreement, electoral roll records and council tax status.)
- The property is habitable, and has been since March 2021, so why haven't Mr and Mrs C moved back already?
- It's unfair to pay AA when Mr and Mrs C were limiting their use of the property.

I attempted to mediate the matter between the parties in order to arrive at an outcome that was fair and reasonable in the circumstances. Having reviewed the evidence, I concluded:

- Mr and Mrs C's circumstances did meet the definition of the AA benefit under the policy terms.
- RSA needed to make an AA payment which covered a reasonable period in the circumstances, and up to the point it could be agreed that the property was reasonably habitable.

- That our investigator's recommendation of £2,500 for the distress and inconvenience caused was also reasonable.

I proposed that to put things right for Mr and Mrs C, RSA should:

- Pay Mr and Mrs C the equivalent of 24 months AA at a rate of £1,600 per month.
 - RSA should calculate this from **May 2019** (14 months after the event happened and considering the reasons above) to **May 2021** (the date which it has been shown the property was habitable.)
 - Pay 8% simple interest on the sum above, from the date each rental payment would've been due (for calculation purposes RSA should assume rent was due on the 1st of each month), to the date of settlement.
- Pay a further 10 weeks' worth of AA (at a rate of £400 per week) to enable the snagging work and private repairs to be completed, and the claim closed.
- Pay £2,500 compensation for the distress and inconvenience caused (in line with our investigator's original recommendations).

RSA accepted my proposal to resolve the complaint. Mr and Mrs C didn't agree. They provided a further submission for me to consider. In addition to other points, they said in summary:

- They didn't think the offer was fair, and that RSA had deliberately missed out evidence in its submission to our service.
- That they weren't responsible for any of the delays in the claim and provided further evidence to support some of the missed appointments and delays.
- There are outstanding issues regarding the owing and use off offset funds for uninsured works.
- They maintain the property is uninhabitable due to the outstanding issues and must remain unoccupied. And that the scope of RSA's cash settlement for the remaining work show it's not limited to snagging issues.
- It's not clear what uninsured work RSA has paid for yet.
- It wasn't clear why I had proposed the dates I had for the AA payment.
- It would be impractical to move into the property and back out again for the 10 weeks of outstanding repair works.
- RSA's offer omits payments for council tax which should be covered under the policy as reasonable extra accommodation expenses.
- The costs due are not negotiable and absolves RSA of over 2 years of AA and associated costs.
- The offer proposed by RSA isn't in line with the terms of the policy, which is a legally binding contract.
- RSA should therefore pay for the full amount of AA and associated costs.

As Mr and Mrs C remain unhappy with the proposed settlement, I've considered all the additional points Mr and Mrs C have raised when reaching my 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.

The informal nature of our service means that I'm not required to respond to every single point that's raised. And I don't intend to cause Mr and Mrs C a discourtesy by not doing so. But I do want to reassure them that I've carefully read and considered all the evidence provided before reaching my conclusions.

Our service isn't set up to act in a claims handling capacity and as such any ongoing issues (such as the money RSA has recently established it owes Mr and Mrs C for the offset costs, or outstanding claims for council tax) I consider to fall outside of the scope of my decision.

I don't agree that the issues raised here regarding an AA payment are clear cut, or that Mr and Mrs C cannot be held responsible for any of the delays in the claim. And the crux of their submission seeks to put all of the blame onto RSA for every delay and event that's happened regarding the repairs to their property.

But simply put, based on the considerable evidence and correspondence I've reviewed, it's clear to me that there were avoidable delays at times from both parties. And I've not seen anything in Mr and Mrs C's most recent submission to persuade me to depart from this conclusion. Rather, the evidence supports a finely balanced and relatively complex set of circumstances involving multiple contractors, and an overlap of insured, uninsured and private works, which has evidently complicated the claim.

I'll next provide some further clarity behind my thinking with regard to the AA payment. The relevant section of Mr and Mrs C's policy says that regarding *"the cost of alternative accommodation"* ... *"We will also pay for: any reasonable extra accommodation expenses: until the house or flat is ready to be lived in."*

Our service's approach to AA is that when we say "reasonable", we generally take that to mean a similar type of property to the one the consumer is insured for. And we take "additional" (or in this case "extra") to mean costs above and beyond what a consumer would usually pay if the claim hadn't arisen.

Mr and Mrs C say these costs aren't negotiable, the property remains uninhabitable, and this offer means they will be out of pocket for additional AA costs they've incurred.

However, in line with our service's overall approach I've set out above, I disagree. I don't consider the benefit entitlement is strictly defined in the policy, and therefore in the circumstances, RSA is entitled to consider if all the costs being claimed for are in fact "reasonable" or "extra".

In regard to the property's habitability, I previously considered this point and I remain persuaded that on balance, it's been shown the property was habitable since May 2021, and that the recent scope of works and associated cash value don't show it's uninhabitable. Our service does take a broad approach when considering this, but ultimately, simply being *inconvenient* to live in the property doesn't usually mean it's *uninhabitable*.

I say this because whilst the surveyor recommended the property remained unoccupied to complete the repairs, he also said, *"In regards to habitability then in my opinion the property is **suitable for occupation**. However, it would be far easier, quicker, safer and cheaper for the contractor to undertake the works by keeping the property unoccupied."* (My emphasis in bold).

So, in the circumstances, I find RSA's offer to pay a further 10 weeks' worth of AA to complete the outstanding repairs fair and reasonable. I understand Mr and Mrs C have concerns over the outstanding repairs and scope of works, but on balance, I'm not persuaded that these concerns are sufficient to delay the claim or repairs further.

I accept it wouldn't be practical for Mr and Mrs C to move back into the property and then back out again for the repairs. So, in the circumstances I would suggest a more pragmatic approach would be to allow the repairs to start and for them to raise any final snagging queries upon completion. But ultimately, it's for Mr and Mrs C to decide how they want to proceed.

I acknowledge Mr and Mrs C's query about the dates given for the AA payment. In essence, this was to provide RSA with a reasonable period during the claim from which to calculate the interest (reflecting the time Mr and Mrs C have been without the funds), and taking into account the avoidable delays in the claim I identified. Having reviewed everything again, while it is difficult to calculate the exact date these payments should be made from, I'm satisfied it's the fairest way for RSA to calculate the AA funds Mr and Mrs C are reasonably due under the policy, and reflects the individual circumstances of this complaint.

So, having considered everything, I remain persuaded that the proposed offer is a fair and reasonable outcome here.

Putting things right

To put things right for Mr and Mrs C, RSA should:

- Pay Mr and Mrs C the equivalent of 24 months AA at a rate of £1,600 per month.
 - RSA should calculate this from May 2019 to May 2021.
 - Pay 8% simple interest on the sum above, from the date each rental payment would've been due (for calculation purposes RSA should assume rent was due on the 1st of each month), to the date of settlement †.
- Pay Mr and Mrs C a further 10 weeks' worth of AA (at a rate of £400 per week).
- Pay Mr and Mrs C £2,500 compensation for the distress and inconvenience caused.

† Income tax may be payable on any interest paid. If RSA deducts income tax from the interest it should tell Mr and Mrs C how much has been taken off. RSA should give Mr and Mrs C a tax deduction certificate if they ask for one, so they can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

My final decision is that this complaint is upheld. Royal & Sun Alliance Insurance Limited must put things right by doing what I've set out above.

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

Dan Prevett
Ombudsman