

## The complaint

Miss B complains that her home insurer Royal & Sun Alliance Insurance Limited (RSA) has mishandled and delayed her claim. She wants fair payment in respect of the damage suffered to her property and possessions. References to RSA include all relevant actions that Miss B has ascribed to her insurance claim and complaint.

## What happened

In August 2020 a burst pipe flooded the ground floor of Miss B's property and ruined some of her possessions. RSA sent its restoration firm and then its loss adjuster to assess the claim and they reported on a quantity of mould downstairs that couldn't have occurred in the short time from the incident. The report identified other areas of the property in a poor state. RSA said based on the condition of the property its agents wouldn't carry out repairs.

Miss B said RSA tried everything to avoid a fair settlement for the repairs and replacements. And used intimidation tactics to get her to accept less than her claim was worth, and she had been left unable to repair her property and make it habitable again. She said RSA's payment for temporary accommodation wasn't fair and ran out before the repairs had started. She said RSA wouldn't investigate her complaint. Miss B said her home insurance cover expired and RSA refused to renew it and with an ongoing claim, she couldn't find alternative cover.

Miss B said the claim started well and RSA was very helpful, and its loss adjuster began to work out the repairs. But then RSA investigated her residence at the address and caused delays. Her claim was eventually accepted, and RSA's agents quoted for repairs at about £9,000 and subsequently, £17,800 + VAT. Miss B obtained a higher quote and said that as RSA wasn't willing to carry out the work it should pay her quote. She sent a list of damaged items costed at about £20,000, but RSA said it didn't have to pay for items in a poor condition before the claim and its agent had only disposed of those beyond economic repair.

RSA said Miss B told it she was staying with a friend, so there was no need for temporary accommodation. RSA said its offer for her claim was based on the property's pre-incident condition and related to the policy condition that requires her to *'keep all the property insured in good condition and in good repair'* and a reduction for wear and tear. RSA shared the loss adjuster's report and photos describing the property and contents as very mouldy, with *'considerable mould present in the utility, kitchen and to a lesser extent the lounge'*. RSA made a final offer for repairs of £14,189 + VAT, and £13,744 for contents plus the unvalued electrical items. It said that due to the condition of the property it wouldn't renew Miss B's cover. RSA said it had caused a delay of about a month and paid her £100 compensation.

Our investigator didn't initially recommend the complaint be upheld. He said RSA's loss adjuster found Miss B's property to be in a poor state of repair before the incident. He said he understood Miss B had tried to save her items from water damage, but this wasn't the reason her property was in poor condition, as the report and photos show upstairs areas that were unaffected by the claim to be in a very poor state. The investigator said it was fair for RSA to base its offer of settlement on what it would cost its agents to do the repairs.

Miss B said the investigator was biased and ignored all her evidence. She said our guidance requires RSA to pay for repairs as it wouldn't do the work and should do the work to prepare for the repairs. She said the policy requires RSA to pay for temporary accommodation until her property was habitable not when RSA made its offer for reinstatement. She said drying out completed in early June 2021 and payment for her accommodation stopped on 30 June and it was unreasonable to expect her to find a builder to complete the work in three weeks.

Miss B said the investigator concluded all her kitchen items were subject to wear and tear just because some appeared to be so, and ignored her photos. She said RSA haven't made an offer for her electrical items. Concerning the mould, Miss B said the investigator was wrong about the state of her property as mould growth was only where the water escaped and could have grown between the incident and the loss adjuster's visit. Concerning delays, Miss B said the investigator accepted all RSA's excuses. She said insurers are required to continue a policy until a claim is settled.

The investigator obtained further information from the parties and changed his view on the complaint, recommending most of it be upheld. He said Miss B had carried out significant work, including removal of damaged fixtures and fittings. And RSA's restoration firm had said all moisture from the leak had been removed and mould dealt with. He said RSA's agents still declined to carry out repairs and RSA felt that due to the pre-incident condition of the property it would be difficult to repair only the incident-related damage. RSA said repairs would involve a significant amount of cross over work and betterment and the roof needed fixing to stop rainwater entering.

The investigator said RSA didn't explain about the roof or what betterment and crossover work would be required, but did change its position to say its agents could do the repairs. He said RSA should carry out an effective repair including to structural damage, replacing fixtures damaged beyond repair, and repair electrical wiring, or pay Miss B her contractor's updated estimate of £24,500 plus VAT and reimburse her £650 for electrical work.

The investigator said RSA had paid Miss B a total of £6,400 for temporary accommodation, but wouldn't pay anything from July 2021 onwards as Miss B hadn't accepted its offer and so was holding up her claim. The investigator said lack of valid arguments about the repairs meant RSA should pay her temporary accommodation to when the repairs are concluded.

As to Miss B's possessions the investigator said she was present at their disposal and could have saved any thought to be in good condition. He said RSA should value her electrical items. He said RSA had inconvenienced Miss B as she couldn't live in the property for over two years and has struggled financially and RSA should pay her £950 compensation.

Miss B was still unhappy with this outcome. She said the investigator had fundamentally misunderstood her points as her kitchenware was 'as new' but was damaged by mildew from the leak as her photos showed. She hadn't prevented their disposal as she couldn't know at the time that RSA would refuse to pay for them. She said the investigator had taken RSA's side and was doing their work for them.

Miss B said the compensation recommended by the investigator is nowhere near a reflection of the misery and stress she has suffered. She said the 'going rate' for our cases appears to be £1,000 per six months and so she should be paid £4,000. Miss B said her complaint should be re-examined properly by an experienced ombudsman to make a decision based on our own guidance, rather than just on what RSA say.

RSA responded with information from its loss adjuster about liability for non-incident related work such as removing and reinstating sink and taps and cleaning. It said it wouldn't be liable for works part-completed by Miss B and damage from water penetration of the roof

and walls. Its agents wouldn't guarantee the repairs due to these existing defects and further likely defects. It recommended that these be addressed before the repairs begin.

### **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.

This service considers complaints according to a remit set for us by the Financial Conduct Authority. That doesn't include considering how a business has handled a consumer's complaint and so I haven't looked at the issues Miss B has raised about this. I can see how angry Miss B is towards RSA, its agents and our service and I have attempted to address all the significant points she has made.

### The repairs

Miss B wanted RSA to carry out the repairs and RSA has now said that its agents could do so, but it doesn't think this should include remedial work which it considers to be betterment or pay for wear and tear. Consequently RSA has offered a settlement based on its agents' quote for the incident-related damage only.

I've considered whether it was fair for RSA not to carry out the repairs and reduce its offer on Miss B's claim for pre-existing conditions and wear and tear. And if it is fair for RSA to only pay her what it would cost it to do the work. I've also borne in mind our expectation that insurers carry out effective and lasting repairs and that sometimes, in order to do this, they must carry out work the requirement for which hasn't arisen from the insured event.

RSA's estimate is also lower than Miss B's as it can obtain work at a lower cost than a consumer can. RSA relies on a policy term that allows it to pay Miss B what it would have cost RSA to have the repairs carried out. Miss B thinks RSA should pay her estimate for the repairs as it must indemnify her against the damage to her property, given it doesn't want to do the work itself.

For the majority of claims indemnity is achieved by the insurer carrying out repairs, but in this case, RSA wouldn't do so because it considers Miss B's property to be in a poor state of repair. A home insurance policy is intended to indemnify the policyholder against losses and damage from an insured event, but all other work is uninsured and considered by insurers to be betterment, for which there's no provision in Miss B's policy.

Miss B considers her property to have been in a good state of repair as she has maintained it. Miss B is correct to say that the issue of whether or not she maintained her property is critical to RSA's approach to her claim. And it's a condition of her policy that she keep the property in good condition and good repair. Miss B has addressed the possibility that her property might not be considered to have been well maintained by saying, *'even if there was some sense of betterment – which there isn't your own website has crystal clear advice on this'*. Miss B quotes our guidance to the effect that if the only way to carry out an effective and lasting repair to the insured damage is to carry out work on damage that isn't insured then this should be covered by the insurer so that the policyholder is indemnified.

RSA said the property was damp before the leak. Miss B denies this and says mould growth could have occurred in the seven weeks between the leak and the loss adjuster's inspection. I think she's incorrect to say the only evidence for RSA's position is the messy state of the property after the leak. The evidence from the loss adjuster's report and photos shows extensive mould growth, but this does appear to be situated where the leak occurred and is also present on work surfaces, kitchen units and furniture, with rust on metal implements.

RSA based its reduced offer on the reports from its restoration firm and loss adjuster who said the pre-existing condition of the property meant there would be, '*a significant amount of cross over work and betterment during these works*'. I can well understand why RSA thought this damage was ongoing before the claim arose, but it simply hasn't provided the evidence to prove this. Since the claim incident, Miss B has carried out some preparatory work and RSA acknowledges that the repairs can be undertaken, and so I don't think it fair for RSA to avoid any tasks required in order to ensure the repairs are lasting and effective.

As I've said above, the policy should indemnify Miss B for her losses, but in common with all home insurance policies it carries exclusion clauses for wear and tear. There are two relevant clauses; one which applies to the fabric of the insured building and allows RSA to reduce payment where wear and tear are present and another concerning contents. Firstly:

*'If the buildings have not been kept in a good state of repair ... we will pay the cost of repairing or replacing the damaged parts of the buildings and we will, where appropriate, take off an amount for wear and tear.'*

This clause allows RSA to reduce its offer by an amount equivalent to the wear and tear of the building. Miss B said following the work by RSA's restoration firm the entire ground floor was completely clear, clean and ready to work on. She said the settlement offered by RSA wouldn't allow her to reinstate her property as it wasn't enough to do the work. RSA hasn't shown that it would be fair to reduce its offer for wear and tear, though I can see why it thinks the property was not well maintained.

RSA doesn't want to make repairs to the roof and walls of Miss B's property as it thinks these are allowing water penetration. I can see why it would think this from the photos and description I've seen, and I think its position is reasonable. I would recommend that Miss B has this work completed before the repairs are commenced.

Since RSA has said the repairs can be carried out, I don't think it's fair for it to base its offer on its own quote for repairs. RSA has acknowledged that because of delays it needs to submit a revised quotation as a basis of a settlement offer and I expect this to recognise the large increase in the cost of building materials and labour. I think the best way to achieve this is for RSA to pay Miss B the amount of her revised quote for the repairs. I also think it would be fair for RSA to reimburse Miss B for the electrical work she has paid for.

I don't think RSA's initial offer for the claim of about £9,000 was realistic for the damage incurred at the property and this caused delays and further stress to Miss B. I've considered this further below.

## Contents

Miss B said she doesn't hold a wear and tear policy but a new for old policy and so RSA should compensate her for the full cost of replacing her damaged items. She said she agreed with RSA's agents that all her disposed items were beyond economic repair, but RSA had lied about their pre-incident condition and wouldn't make fair payment. She said RSA has only paid for three quarters of her contents and not included her kitchenware.

The policy exclusion relevant to Miss B's personal items states that for all claims RSA may reduce its payment for a claim in respect of wear and tear or deterioration. Miss B said her photos show her kitchenware to have been in an excellent condition before the claim. I disagree and I don't accept that they would have deteriorated to the extent apparent from the photos in the time from the claim to the loss adjuster's report a month later. There is well developed mould and the corrosion of metal items such as pots and pans must have begun

long before the leak. And so I don't think it would be fair to require RSA to replace all Miss B's items as this would put her in a better position than before the incident.

I think RSA's offer for Miss B's contents is fair, but it hasn't made an offer for her damaged electrical items. RSA has said it awaits her contact about this. I can see that our investigator has prompted RSA on several occasions about this and I can see no justification for further delay by RSA.

#### Temporary accommodation

The insurance policy states that RSA will meet the cost of alternative accommodation if the property is uninhabitable following an accepted claim.

Once RSA decided it wouldn't carry out the repairs it was RSA's responsibility to make a fair payment in respect of Miss B's claim. Following its 'final offer' RSA felt that Miss B was delaying the reinstatement work, whereas Miss B said it wasn't possible to engage builders before RSA stopped paying for her temporary accommodation.

Since I have found that RSA's 'final offer' wasn't fair to Miss B as it didn't indemnify her against her losses, it follows that I think payment for her temporary accommodation should have been continued. I think the investigator is correct to say that this should be paid until the property returns to habitability. Miss B said she has an agreement with a friend who has provided her with accommodation that monthly rental payments of £950 would be deferred until the money be made available.

RSA has said it would like to see some proof of Miss B's stays in temporary accommodation, and the agreement between her and her friend. I think it is reasonable for RSA to wish to see some verification about Miss B's temporary accommodation.

#### Delays

Miss B said RSA delayed her claim and allowed mould to grow unnecessarily. I think RSA had reasons to investigate the claim in terms of Miss B's residence at the insured address and the condition of the property. Having said this the investigation was followed by delays, one of which RSA has acknowledged and paid Miss B £100 compensation.

I think RSA made an initial offer for Miss B's claim which was inadequate for her to have made a proper repair, and this delayed its 'final offer'. As I have said, I think RSA has delayed making an offer for Miss B's electrical items for a considerable period and this will have caused her some inconvenience. I think RSA should pay her further compensation for this.

Miss B said RSA shouldn't have refused to renew her home insurance policy while her claim remains unresolved. There is no requirement on an insurer to offer to renew a policy if it decides it would no longer wish to insure the risk. It must, however, continue to deal with a claim as it would with a current policy.

#### Stress and anxiety

Miss B said RSA's handling of her claim has caused her sleeplessness and anxiety, and she has wondered if she will have a home of her own again. I'm sorry to hear that and that she feels RSA has bullied her, but I haven't seen any evidence of bullying or intimidation from RSA.

Miss B has said she has suffered two years of stress. I sympathise with her for the protracted nature of her claim. However, even had the settlement been agreed without delay, there would have been significant work required on the property before she would have been able to move back. The report provided by RSA (as quoted in the buildings insurance section above) shows that the clearing and drying phase had been completed by 8 June 2021. At this point, and with no evidence from RSA to suggest otherwise, the reinstatement work could have begun. This is likely to have taken several months.

Miss B has made the point about the excessive amount of time she has spent on her claim. Our service doesn't award compensation for a policyholder's time in dealing with a claim as this is inherent in dealing with a long and involved claim.

In conclusion, I find that our investigator considered the evidence and followed the terms of Miss B's policy and our guidance in reaching a fair and reasonable view on her complaint. I agree with his view that for the impact the poor handling of her claim had upon her, RSA should pay Miss B £950 compensation.

### **My final decision**

For the reasons I have given above it is my final decision that the complaint is upheld. I require Royal & Sun Alliance Insurance Limited to:

- Pay Miss B the equivalent of her revised estimate for the repair of her property including VAT if it is charged to her by the contractor, unless RSA wishes to engage its contractors to carry out the work.
- Pay Miss B for the £650 she incurred for electrical work.
- Pay Miss B for the costs of her temporary accommodation up until her home is made habitable again through restoration of the damage. Miss B to provide RSA with the evidence it requires to verify her temporary accommodation arrangements.
- Pay Miss B £950 compensation for her distress and inconvenience.
- Make Miss B an offer for her electrical items that were beyond economic repair.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 27 December 2022.

Andrew Fraser  
**Ombudsman**