

The complaint

Mr S complains that Royal & Sun Alliance Insurance Limited (RSA) voided his home insurance policy following a claim for storm damage.

What happened

In November 2021 Mr S made a claim on his home insurance for damage to his roof at the gable end of his house. He told RSA that the damage had been pointed out by a neighbour that day and he didn't know why it had occurred.

RSA sent a surveyor to assess the damage. He said that the gable end wall was leaning outwards which was pulling the roof tiles from the roof and causing gaps in the end ridge tiles. He said the problem was structural and was due to a failure, or lack, of wall ties. This was not something that was covered under the policy and had been ongoing for some time.

Mr S made two previous claims for storm damage to his roof in October 2020 and April 2021. The damage on these occasions were slipped tiles and damage to a roof valley resulting in water ingress to a bedroom. Both these claims were declined as there was no evidence of a storm and the damage was believed to be a result of natural breakdown of materials. No repairs had been carried out since the claim in October 2020.

Due to concerns about the previous claims, RSA appointed investigators who interviewed Mr S about the new claim. Following the interview RSA wrote to Mr S setting out its concerns. It highlighted the two previous claims and discrepancies with Mr S's account of when he'd first noticed the damage to the gable end and how the damage had occurred. It said there were no storm conditions around the time of the claim. It also noted that no repairs had been carried out following the earlier claims and that Mr S had declined to provide contact details for his neighbour. It asked Mr S for his response to the issues it had raised within 14 days.

Mr S responded saying that he denied his claim was false. He said that the issue with the gable end was different to the earlier claims, and he couldn't be sure exactly when the damage was caused.

In January 2022 RSA sent a letter to Mr S confirming that it didn't believe the claim was honestly presented. It said the policy was being voided from the date of the claim with no refund of any premiums paid. Mr S wasn't happy with this and complained to RSA. He didn't think there was any evidence of dishonesty and that he'd not been given a reasonable opportunity to challenge RSA's findings.

RSA didn't uphold Mr S's complaint. It said that it had been correct to void the policy as it had not been honestly presented and this had been clearly set out in its letters in November 2021 and January 2022. It also said Mr S was in breach of the loss and damage condition in his policy as he hadn't properly maintained the roof.

Mr S brought his complaint to this service. He thought RSA had unfairly concluded that his claim wasn't honestly presented and had unreasonably voided his policy. He believed that RSA came to their decision in an arbitrary manner and didn't give him a proper opportunity

to challenge it. He also said that if his policy was cancelled for breach of the maintenance condition that he should be given the opportunity of cancelling it first to avoid an enforced cancellation on his record.

Our investigator looked into the complaint but didn't think it was unreasonable for RSA to void the policy. Mr S didn't agree and asked for the matter to be considered by an ombudsman.

My provisional decision

I issued a provisional decision on 20 February 2023. I said:

"Mr S's complaint is not that his claim was declined, but that his policy was voided. Mr S refers to his policy being voided for fraud – and this is hinted at by RSA. However, it's not clear to me exactly why the policy was voided as reasons given by RSA and their investigator are unclear and inconsistent.

I've listened to the investigation interview with Mr S. Although there is reference to RSA taking matters of fraud seriously, there is no specific mention of Mr S being investigated for fraud. The letter dated 30 November 2021 following the interview says that the investigator holds "serious concerns regarding the claim" and outlines the consequences should a fraudulent claim be submitted - but doesn't say that is what is being investigated.

RSA then wrote to Mr S on 7 January 2022 saying the policy was being voided. It said that the claim had not been "honestly presented" and "As the misrepresentation is considered deliberate you are not entitled to any refund of premiums paid in connection with this policy". There's no mention of how the claim was dishonest, what the misrepresentation was or whether RSA was relying on a condition of the policy to void it. If RSA was voiding a policy for fraud, I think it's reasonable to expect it to make this clear. I don't think that saying a claim was not honestly presented is the same as saying it's fraudulent.

Following Mr S's complaint, RSA sent a letter dated 3 February 2022. This letter suggests that the policy was voided for breach of the maintenance condition in the policy as Mr S failed to carry out any repairs following the earlier claims. I haven't seen this condition mentioned in any of the earlier correspondence with Mr S. The letter then goes on to say that it also agrees with the reasons given previously by their investigator for voiding the policy – namely that it wasn't honestly presented. So, it's not clear whether RSA are now saying the policy was voided for breach of the maintenance condition, dishonesty, or both.

In order to determine this complaint, I've looked at whether it was reasonable for RSA to conclude that the claim wasn't honestly presented. This was the reason given to Mr S for voiding his policy in the letter of 7 January 2022. I've not considered whether Mr S breached the maintenance condition as this wasn't given as a reason for voiding the policy. If RSA was relying on this, Mr S should have been clearly told in the letter of 7 January 2022. Mr S has said that he wasn't given the opportunity to clarify issues so if RSA has now decided to rely on this it ought to allow Mr S the right to respond and then consider any response he provides.

Voiding a policy is a serious matter – whether RSA are saying this is fraud or not. So, RSA should state the relevant condition within the policy that it is relying on to void it. It hasn't done that here. RSA must also be able to show strong evidence that it's likely that Mr S was dishonest before I can say that its action was reasonable. This is not a criminal matter, so RSA doesn't have to prove beyond reasonable doubt that Mr S was dishonest; it only has to show this on the balance of probabilities.

RSA say that Mr S was aware that his roof was in a poor state of repair and knew of the problem with the gable end roof well before he reported it in November 2021. It relies on the investigator's report, Mr S's interview and the information and photos from the surveyors to support this. I've looked at all these documents carefully – and listened to the recording of the interview.

RSA say that their surveyors' reports and photos clearly show damage to Mr S's roof in October 2020 and April 2021, namely slipped and cracked tiles around the lead valley and water ingress into the bedroom. I can see this damage from the photos. Mr S was informed of the damage found and his claims were declined due to wear and tear. Mr S accepts that he didn't carry out any repairs following these claims. RSA say therefore that Mr S must have been aware in November 2021 that the roof was in a poor state of repair. I agree as Mr S was aware there was previous damage and no repairs had been carried out.

The damage that was reported in November 2021 was different – and RSA accept this as confirmed in their investigator's report. RSA do say, however, that it was clear from its surveyor's report in April 2021 that there was damage to the front gable end. The report refers to a section of the front gable end where the verge tiles are starting to move away from the roof, and this can be seen in the photos attached to the report. These photos show very similar damage to the photos taken later in November 2021 and I therefore agree with RSA that the damage to the front gable end was present in April 2021.

It's not enough to show the damage was present before November 2021, Mr S must be aware of it and present his claim dishonestly. I've not seen any evidence that Mr S was provided with a copy of the April 2021 report or the photos. However, RSA say that its surveyor told Mr S about the issue with the gable end in April 2021 whilst he was present at the house.

Mr S was asked about this in the interview and accepted that the surveyor may have told him, but he couldn't remember. Mr S explained that in 2020 there was a sudden family bereavement which had a traumatic impact on both him and his wife. His main focus was not therefore on the house or the repairs. I don't know exactly what the surveyor said to Mr S, but as the gable end was not the focus of the complaint at that time, I think it unlikely that the surveyor went into any detail. Mr S said that if the damage was there in April 2021, he wasn't fully aware of the extent of it until his neighbour pointed it out in November 2021.

Mr S initially said in his interview that he didn't know how the damage was caused. This is also what he told RSA when he first reported the claim. Later in the interview he suggested that the damage was caused by a storm, not necessarily on a particular day but that there were recent storms that had caused damage locally. RSA said there were no storms around the time of the claim and that the damage was structural. This may demonstrate that Mr S was wrong about the damage and its cause, but I don't think it shows that he was dishonest.

During the interview, RSA asked Mr S for his neighbour's contact details so it could verify that they alerted Mr S to the damage in November 2021. Mr S declined to provide this information as he didn't wish to involve his neighbour. Whilst this wasn't helpful, I don't think it's enough to show Mr S wasn't being honest.

Bearing all the above in mind, I don't think RSA has provided enough evidence to support its decision that Mr S's claim was dishonest, or shown where in the policy it says it can void the policy for this reason. I therefore think the decision to void the policy was unfair.

Mr S also complained that he wasn't given the opportunity to challenge RSA's findings of dishonesty before it made its decision. However, Mr S was sent a letter on 30 November 2021 setting out RSA's concerns and asking him for his full written explanation and

supporting evidence within 14 days. Mr S responded saying that he refutes any suggestion that he has made a false claim. I'm satisfied that Mr S knew there was a suggestion of dishonesty and was given the opportunity to answer the specific concerns raised by RSA before it made its decision.

In order to put things right, I intend to require RSA to reinstate the policy and remove all record of the policy being voided, including any mention in internal and external databases. RSA should then reconsider the claim subject to the policy terms and conditions. Mr S should be aware that I'm not making any decision about the merits of his claim or about the application of the terms and conditions in the policy, including the maintenance condition. I'm also aware that Mr S has taken out home insurance with another insurer. If he can provide evidence from his current insurer that he has paid more for his insurance having had his previous policy voided by RSA, I will consider asking RSA to refund the difference, plus interest.

I've also considered compensation for distress and inconvenience. Mr S says that the allegations of dishonesty left him extremely upset as they have questioned his credibility and damaged his reputation. I understand this although I think that any damage to reputation is limited as the matter was not referred to police and was recorded only on insurance databases. I think compensation of £200 would be fair."

Responses to my provisional decision

RSA didn't accept my provisional decision and provided more information to support its view that Mr S was aware of the damage to the gable end in April 2021. It said that this damage had been communicated to Mr S during the surveyor's attendance and in a subsequent letter. Mr S was also provided with the photos. RSA also said that Mr S's reluctance to share the details of his neighbour supports its argument that he was aware of the damage.

RSA accepted that its policy doesn't say that if the maintenance condition is breached it will void the policy. It also accepted that its letters to Mr S regarding the reason for voiding the policy could have been clearer. However, it believes it's done enough to demonstrate that Mr S didn't present his claim honestly and that it was reasonable to void the policy.

Mr S accepted my provisional decision regarding the voiding of his policy but didn't agree with the level of compensation for distress and inconvenience. He said that he found the allegation of dishonesty very distressing and that his reputation was of paramount importance to him. He said he had also spent considerable time and effort obtaining alternative insurance and thought that compensation of £1,000 would be more appropriate.

Mr S provided some details of the increase in his insurance premiums following his policy being voided. He says for his home insurance he paid £458.78 more in 2022/23 and £167.17 more in 2023/24. Mr S also has insurance on another property which he says has increased from £280.60 for 2021/22 to £724.55 for 2022/23.

Mr S said that RSA should also refund his home insurance premium for the year 2021/22 which RSA retained after it voided the policy.

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.

RSA have provided me with a copy of a letter it sent to Mr S in April 2021. The letter briefly mentions damage to the gable end of the roof. I've also seen confirmation that the photos

were sent to Mr S. I think it likely therefore that Mr S was told of some gable end damage in April 2021, albeit not in any great detail.

Accusing someone of fraud is a serious matter and the evidence needs to be strong for this service to uphold a finding of fraud. Mr S says that he doesn't recall RSA telling him about an issue with the gable end – but he's always accepted that it may have. I dealt with this in my provisional decision, and I don't think this new information changes anything. The gable end wasn't part of the April 2021 claim and, bearing in mind Mr S's extremely difficult family circumstances, it wasn't the focus of his attention. Mr S maintains that he didn't appreciate the extent of any damage until it was pointed out to him by his neighbour in November 2021.

In my provisional decision I said that Mr S would not only have to be aware of the previous damage to the gable end, but also to present his claim dishonestly. I haven't seen anything new in relation to dishonesty and so I don't think RSA's decision to void the policy for fraud was fair.

Bearing all the above in mind, I haven't seen enough to change my provisional decision in relation to the voiding of Mr S's policy. I think it reasonable for Mr S's policy to be reinstated and for RSA to reconsider Mr S's claim under the remaining terms and conditions of the policy. As the policy is to be reinstated, I don't think it reasonable to expect RSA to refund the premium for the remainder of that policy year.

Mr S has provided copy correspondence showing some of the cost of his property insurance since his policy was voided. I've seen a home insurance policy renewal for 2023/24 at a cost of £463.79 but haven't seen confirmation of the renewal for 2022/23 which Mr S says was £755.40. I've also seen confirmation of his other property insurance renewal for 2022/23 which was £724.55 but haven't seen confirmation of the previous year's premium. I also understand that this policy is due to renew shortly, and I don't have any details for this.

I accept that Mr S's insurance premiums are likely to have risen as a result of his policy being voided. In the circumstances I think it fair for RSA to refund to Mr S any extra amount he has had to pay for his home and other property insurance. Mr S will need to provide RSA with evidence of his premiums before and after the voidance, including for this current year if this has been paid. I also think it fair that RSA pay interest at 8% pa from the date Mr S made payment for his insurance to the date the money is refunded to him by RSA. I say this because Mr S has been without the benefit of this money during this time.

I've considered carefully what Mr S says about compensation for distress and inconvenience and I accept that the allegation of fraud was distressing. However, I haven't seen anything new that makes me change my mind and I think that an award of £200 compensation is fair for the reasons stated above.

My final decision

My final decision is that I uphold this complaint and require Royal & Sun Alliance Insurance Limited to:

- reinstate Mr S's policy and reconsider his claim under the remaining policy terms and conditions;
- remove all record of the policy being voided on all internal and external databases;
- subject to Mr S providing it with appropriate evidence, reimburse any extra amount he has had to pay for his home and other property insurance from the time it voided his policy;

- add interest to the above reimbursements at the annual simple rate of 8%, calculated from the date Mr S paid each of the premiums until the date of settlement; and
- pay Mr S £200 compensation for distress and inconvenience.

If RSA considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr S how much it's taken off. It should also give Mr S a certificate showing this if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 5 July 2023.

Elizabeth Middleton
Ombudsman