

## The complaint

Ms N complains that Royal & Sun Alliance Insurance Limited (RSA) failed to deal adequately with her claim for water damage to her property under her home insurance, and has failed to provide her with a reasonable settlement. The claim was mostly dealt with by loss adjusters though unless I say otherwise, I shall refer to RSA throughout this decision.

## What happened

Ms N first made her claim to RSA in October 2017. She claimed for the water damage to her downstairs rooms and to her first floor toilet and second floor bathroom. There were delays initially in getting the property ready for repairs and as a result RSA agreed to pay £250 compensation. She was paid a settlement for the damaged contents, which included payment for a new washer dryer. She subsequently made a claim for laundry costs which RSA declined to pay as she had had the funds for a replacement machine.

RSA issued a final response letter on 26 January 2018 offering the said compensation. It would appear that there were then some difficulties in contacting Ms N to arrange for the repairs to start and the claim file was closed in May 2018. Ms N subsequently made a complaint to the Financial Ombudsman Service. That complaint was dealt with by one of our Investigators in September 2018. In her view she said that the compensation offered by RSA was reasonable to account for its delays - she suggested that Ms N get in touch with RSA to arrange for the repairs to be carried out. She further said that as Ms N had received a payment for damaged contents including for a washer/dryer it wasn't reasonable for RSA to pay her laundry costs.

I understand that RSA then reopened the claim. It arranged for different contractors to go out and price up the repair works. Those contractors attempted to contact Ms N during January and February 2019 with no success. Finally a start date was arranged for 5 March, which unfortunately the contractors couldn't keep because of illness. The further date of 7 March had to be postponed, and the contractors left a message saying they would return on 11 March. It would appear that Ms N didn't get that message as only her son was in on 11 March. A visit on 12 March also proved to be abortive. Ms N contacted our Investigator again, who passed this on to RSA. The contractors then tried to rearrange the start date but Ms N was uncontactable. The claim file was closed again.

In May 2019 Ms N instructed solicitors (H) who wrote to RSA in August 2019 setting out that the claim hadn't been progressed. RSA reappointed the loss adjusters who carried out a site visit in November 2019 to check what works had been completed against the scope of works. A cash settlement was calculated, however Ms N said she wanted RSA's contractors to do the work. RSA suggested appointing the previous contractors but Ms N didn't want them back. RSA said it had no other contractors available so could only offer the cash settlement based on its contractors' costs.

RSA tried to contact H from January to March 2020. They replied in April with details of expenses, which RSA was able to agree except for laundry costs. H also enclosed two quotes for the works for around £22,700 and for around £26,400, both exclusive of VAT, which RSA said were unacceptable. I understand it was agreed that H would obtain a

surveyor's quote. RSA also forwarded a schedule of works to them in June 2020, but couldn't get a response, so closed the claim again in January 2021. It didn't hear from them again until March 2021. H had appointed a surveyor who had carried out costing of the outstanding works in December 2020, which amounted to £15,000 including a £2,000 contingency reserve. RSA advised it would only pay what it assessed the work would cost according to its contractors' rates, this was just over £4,500 excluding VAT. It also proposed a revisit as there were items in Ms N's surveyor's report which hadn't been in its original scope. H advised that Ms N wouldn't agree to a revisit (although she has since agreed to one).

On 30 October 2021 RSA issued a further final response. I now understand N to say that she never received that response. I have noted that is clearly properly addressed to H at the address RSA had been corresponding with, and I would suggest that she take up with H whether it received that letter. Nevertheless if Ms N wants to make further comments on that letter, she can do so in response to this provisional decision.

RSA maintained its position concerning the cost of repairs. It also agreed to pay a settlement for other costs, like showering, use of convector heaters and photocopying and postage. Having previously offered to pay the laundry costs it said this was a mistake and it couldn't pay those, in line with our previous Investigator's view. It recognised its approach had been inconsistent with regard to contacting Ms N and closing the claim down after periods of no contact. It agreed to pay £500 compensation for this.

RSA paid the £500 compensation (and the £250 offered in 2018) in November 2021. It also paid the £4,500 odd for the repairs. That appears to be the last action by RSA in this case. It did propose to send a further final response in June 2022, but I don't think that ever materialised.

Ms N advised us that she had been told by H to get a final response from the Financial Ombudsman, so they could issue Court proceedings. As far as I'm aware no such proceedings have been issued as yet. Another of our Investigators reviewed the matter in August 2022. He said that although there were long periods when nothing happened this wasn't RSA's fault. He also said RSA's position concerning the settlement was reasonable.

Ms N disagreed – she pointed out that for three consecutive days the contractors failed to turn up, without warning, leaving her with no choice but to book contractors herself. She says the work can't possibly be done for the amount RSA has paid. This isn't even enough to compensate her for having to live in an unhygienic home for five years.

The complaint came to me for review. I issued a provisional decision. In it I said that RSA should pay some further expenses, and should pay some interest on the settlement, and an additional £100 for the missed contractors' appointments. However I thought that the cash settlement proposed was fair, and that, save for the £100, the compensation paid was reasonable.

Ms N responded to my provisional findings, and reiterated a number of points I had previously considered. So I won't go into every point she makes, but the main points I will address in this final decision are:

- She doesn't know why we are only considering all the costs up to November 2021 – surely all the costs right up to the present date should be included?
- Although she instructed H (solicitors) in late May 2019 and passed to her solicitor all the information in May/June 2019, she doesn't know why there was a delay at the solicitor's office so that their first letter to RSA went out on 13 August 2019.

- It had been her preference for the Insurer to carry out the repair works as they are complex and far more expensive for her to complete – e.g. she doesn't have access to the builders' rates which the insurers negotiate.
- There was a delay between June and October 2021 when H was trying to get an answer out of RSA concerning the settlement.
- RSA delayed the matter by failing to issue its promised final response letter in May 2022.
- There was a delay by the Financial Ombudsman Service in getting the matter allocated and reviewed.

RSA did not respond to my provisional 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.

I set out below my provisional findings, in italics. Where any previous wording was in italics, I have also underlined it.

#### *“scope of this decision*

*My view is that I'm able to look at all matters after 26 January 2018. Our Investigator only considered matters after the September 2018 view letters but those letters only deal with issues up until the final response letter of 26 January 2018. The views didn't proceed to an Ombudsman's decision, so they remain our final answer in respect of the matters set out in them. So I can't look at any initial delays up until after January 2018. Also, our Investigator's view was that as Ms N had received a cash payment for her contents which included a new washer dryer she didn't need to incur laundry costs, so I can't revisit that issue from before January 2018.*

*I've also reviewed matters up until August 2022. Despite saying it would, RSA didn't issue a final response after October 2021.*

#### *delays/failure to respond*

*Ms N says she had to continually chase up RSA. She's been living in an unrepaired house for over five years, without heating, an unusable utility room and the smell of sewage. On the other hand RSA says Ms N was uncontactable for long periods and the claim was closed down several times. It did say however that its approach had been inconsistent with regard to contacting Ms N and closing the claim down after periods of no contact, so paid her £500 compensation in that respect.*

*The periods of delay from January 2018 until RSA settled the claim in cash are:*

*January 2018 to September 2018 – RSA says its contractors tried to get in touch with Ms N in February and March 2018. Its loss adjusters sent a 7 day letter and the claim was closed in May 2018. I've not seen any specific information on RSA's or the loss adjuster's files concerning this time period, but it's clear that Ms N was pursuing her former complaint with the Financial Ombudsman during this period. As that complaint didn't concern this period, I'm unable to conclude that RSA was at fault.*

September 2018 to August 2019 – Ms N had made it clear that she wanted RSA to send out its contractors. It duly appointed new contractors who went out to price up the work, which it finalised in December 2018. RSA says its contractors tried to get in touch with Ms N, and couldn't do so until eventually arranging a start date of 5 March 2019. Ms N says she waited in on three consecutive days and the contractors failed to attend, only giving her an explanation late in the day. RSA says the contractors advised Ms N they couldn't attend on 5 then 7 March because of illness, giving her notice at the time. They say they left a message saying they would return on 11 March which they duly did but only Ms N's son was there on that date and couldn't let them in. Similarly on 12 March only a friend was there but Ms N says she received no notice of either day

At this time, it is clear that Ms N was in contact with one of our Investigators who passed on information to RSA. RSA says its contractors tried to contact Ms N after 20 March and in early April, but she didn't respond, and it closed the claim again. Ms N advised our Investigator that she was instructing solicitors.

Having considered what happened, I think there was a familiar pattern of contractors attempting to contact Ms N and her not responding. She was aware however that the contractors were attempting to get in touch with her and she could have contacted the loss adjusters or RSA directly. It was unfortunate that the contractors were unable to attend on appointed days and I recognise the inconvenience caused to Ms N. But as I've not seen any details from RSA of the times the contractors attempted to contact Ms N, I'm inclined to accept that for two days she waited in all day and didn't hear from the contractors until late in the day. I think RSA should pay a further £100 compensation for the inconvenience caused. Generally though, I don't think that RSA was responsible for delays during this period, although I do think that by that stage it should have considered making a cash settlement rather than just closing the file (which from past experience was likely to reopen).

January 2020 to March 2021 – In August 2019 H wrote to RSA alleging that it had failed to progress the claim. RSA reappointed its loss adjusters who attended in November 2019 to calculate the cash settlement. RSA advised Ms N that it had no other contractors available. RSA tried to contact H in January and February 2020, but got no response until April 2020 when it was able to agree some outstanding expenses. It said it could not agree the quotes for completing the work. It sent a schedule of the outstanding work it thought necessary to reinstate the property to H in June 2020 but did not hear back. I believe that it was agreed that H would obtain a surveyor's report to provide proper costing. While this took a long time I can't say that RSA was wrong to ask for such a report especially as did show the quotes obtained were excessive. H didn't contact RSA until March 2021. As Ms N was instructing solicitors during this time, I'm not inclined to say that there was anything RSA could have done in the meantime.

March to November 2021 – RSA advised, having received Ms N's surveyor's report that it couldn't pay the £15,000 proposed in that report and that it was prepared to offer the cash settlement that it had previously calculated. It paid that cash settlement in November 2021. However, I don't think it was responsible for delays during this period.

I have to consider whether it was reasonable for RSA only to pay Ms N what it would have cost it to instruct its own contractors. First of all the policy allows for this, stating:

"Where we can offer repair or replacement through a preferred supplier but we agree to pay our customer a cash settlement, then payment will normally not exceed the amount we would have paid our preferred supplier."

Ms N feels that only having two contractors in her area was unreasonable for such a large

*firm as RSA, bearing in mind the area she lives in. However I can't say who RSA should make available in a particular area. It does appear that both contractors were willing to carry out the work, but after the second contractors missed appointments, Ms N was unwilling to have the first one back. I do think that RSA made reasonable attempts to carry out the work. And while Ms N says that RSA and/or its loss adjusters or contractors failed to contact her, it does appear that she was uncontactable for long periods.*

*So I think RSA has acted fairly in offering, then paying, Ms N the cash settlement based on its cost to repair – which is all it would have paid had it been able to progress the work. But it was aware from at least April 2019 that the cash settlement was the only reasonable option left. And I think it was aware from its contractors what that sum should have been. I don't think the site visit in November 2019 changed that very much.*

*So, rather than close the file for a second time when it was likely to reopen bearing in mind its first contractors' experience, it should have offered to pay the cash settlement at the same time as saying it was closing its file. Then if it got no response, it should have transferred the money, without prejudice if necessary, to Ms N by 1 May 2019. I think this is a reasonable date by which this should have happened – so even if RSA actually closed its file after this date, it should still, I think, have acted by 1 May 2019 to pay Ms N the case settlement. The funds would at least have then been available to Ms N to get some repairs under way. As it did not pay them until November 2021, I think it should pay simple interest on the cash settlement from 1 May 2019 to 8 November 2021 at 8% per year. This would cover any increase in building costs over that period.*

*I understand that Ms N has now indicated to our Investigator that she is prepared to have RSA revisit. This is because there are items on her surveyor's scope that weren't on RSA's original scope. After any such revisit, RSA should consider payment for any such additional items.*

#### VAT

*RSA's payment is said to be exclusive of VAT. As this doesn't become payable until any contractor submits their invoice, I think that's reasonable. RSA should pay the VAT on receipt of an invoice showing the VAT payable (up to the amount payable on its cash settlement).*

#### compensation

*RSA has paid £500 compensation for its approach to the times it closed down the claim. Save for the additional £100 I've mentioned above, I think that's reasonable. I don't think RSA is responsible for the fact that the repairs have not yet been done or for Ms N having to live under the conditions she describes. But I'm aware that Ms N is noted as a vulnerable person. Our previous Investigator thought that she shouldn't be paid her laundry costs up until 26 January 2018, because she had had funding for a new machine. But I'm inclined to think that after that date she should receive payment towards her laundry costs.*

*I believe from the notes of the claim that the utility room was not usable, and any new washing machine would need to be plumbed in. I note that RSA said that she could have contacted it to ask for some temporary repairs to be carried out to enable this. But I don't think it was fair to expect her to do that. It was aware of her circumstances and it could have offered to do this. I think it should pay Ms N's laundry costs from 26 January 2018 to 8 November 2021 with interest at 8% from the dates she paid those costs until reimbursement. Ms N should be prepared to produce receipts in respect of the costs incurred.*

*Similar considerations apply to the costs of showering and the electricity costs of running electric heaters. I'm aware Ms N received some payment for these following H's letter of April 2020. But if she incurred any further such expenses after that and up until November 2021, RSA should pay the expenses during that period with interest at 8% from the dates she paid them until reimbursement. Ms N should be prepared to produce receipts or bills.*

*failing to issue a final response letter*

*I think this is part of the complaint about the claim rather than a separate issue. RSA did advise Ms N several times in 2022 that it would be issuing a further final response letter. As far as I know it hasn't done that. I know this must have been irritating for Ms N. But I don't think it held up our investigation as I believe RSA's position remained the same. So I won't award any further compensation in respect of this.*

In respect of Ms N's points in response, as listed above:

I understand Ms N believes RSA should be paying all her costs up to the present day. But the reason I used the 8 November 2021 date up to which RSA should pay costs and interest is because that is the date Ms N received her settlement. She could have used that settlement to get the main repairs under way. I bear in mind that at the time of receiving the settlement she was being advised by solicitors.

I'm sorry to see that H delayed in acting on Ms N's instructions – that a matter she should take up with them

I know Ms N preferred for RSA to carry out the work. I should explain that most household insurance policies allow for repairs to be carried out by or on behalf of the Insurer. If that can't be done the Insurer will offer a cash settlement based on what it would have paid its contractors. In this case, RSA attempted to get the repairs done using two contractors' firms. In light of what I said in my provisional findings, I think the arrangements broke down through no fault of RSA or its contractors. It wasn't able to offer a third contractor, and although I understand Ms N doesn't believe this, I have no evidence to show otherwise. I can't reasonably tell RSA to use a contractor unknown to it, as it would be responsible for all the repairs. Equally I don't think it would be reasonable to expect it to pay private contractors' rates when it had attempted to use its own contractors.

So regrettably the only choice in this case was for RSA to pay the cash settlement as it did. I understand that this is not sufficient for all the costs private contractors might charge, but this is in line with the terms of the policy.

Ms N has sent an email exchange between H and RSA for the period June to October 2021. It's clear that because of backlogs caused by the Covid 19 pandemic, RSA had difficulty in appointing an assessor to review the surveyor's report. I don't propose to take any more action concerning this period, as I have addressed the delay in offering a settlement in my provisional findings.

I addressed RSA's delay and its failure to issue a further final response letter in my provisional findings. I don't think this caused any additional delay in getting the complaint considered.

Lastly I am sorry that there was delay by the Financial Ombudsman Service, I believe our Investigator went through that with Ms N at the time.

I have reviewed all the other information sent in by Ms N, including photos, up until today's date. I confirm that they don't give me a reason to alter my provisional findings.

So I remain persuaded by my provisional findings, which are now final and form part of this final decision.

### **Putting things right**

RSA should:

- pay 8% simple interest\* per year on the settlement of £4,548.82 from 1 May 2019 until 8 November 2021.
- pay any VAT, up to the amount due on its cash settlement, within 14 days of receiving an invoice showing the amount of VAT payable. If unpaid after the 14 days, then add 8% simple interest\* per year until reimbursement.
- pay Ms N's laundry costs incurred from 26 January 2018 until 8 November 2021 together with 8% simple interest\* per year from the dates Ms N paid any such costs until reimbursement.
- pay any extra electricity costs for electric heating and any costs not already paid for showering over the same period together with 8% simple interest\* per year from the date(s) Ms N paid any such costs until reimbursement.
- after any further site visit, consider payment for any additions to the scope of works.
- pay an additional £100 compensation.

\*HM Revenue & Customs may require RSA to deduct tax from any award of interest. It must give Ms N a certificate showing how much tax has been taken off if she asks for one.

### **My final decision**

I uphold the complaint in part and require Royal & Sun Alliance Insurance Limited to provide the remedy set out under "Putting things right" above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms N to accept or reject my decision before 21 April 2023.

Ray Lawley  
**Ombudsman**