

The complaint

Miss S complains about Royal & Sun Alliance Insurance Limited's ("RSA") decision to decline her claim under her home insurance policy.

What happened

Miss S says, following an accidental fire at her home, she made a claim against her policy. RSA declined the claim, so Miss S complained about their decision.

RSA responded and explained Miss S originally reported that the fire was started by an electrical fault however the fire report stated the cause of the fire was children playing with candles in the summer house. RSA said Miss S disputed the decision as she wasn't at home at the time, and it was her neighbour's children who were playing with candles. RSA said, due to the discrepancies they decided to decline the claim as, whether it was Miss S's children or her neighbour's children, it was clear that all steps to prevent loss, damage or accident weren't taken. RSA accepted they'd made errors in their handling of the claim and offered £150 compensation.

After considering all of the evidence, I issued a provisional decision on this complaint to Miss S and RSA on 3 July 2023. In my provisional decision I said as follows:

"My role requires me to say how a complaint should be settled quickly and with minimal formality and so I'll focus on what I consider to be the crux of the complaint and the main areas of dispute. There's no dispute around the errors involving the claims handling – RSA accept they delayed in sending Miss S a form and also collecting a bike. There's no dispute around the £150 being offered as compensation. I think the compensation offered for these errors is fair and reasonable in the circumstances."

The dispute here relates to RSA's decision to decline the claim and their reasons for doing so. Miss S says her policy covers accidental damage so, given the fire was caused accidentally, RSA should settle the claim."

RSA say the fire report confirms the fire was a result of children playing with candles, so they declined the claim based on a policy exclusion which says they won't pay for loss or damage caused deliberately by Miss S or any member of her household. So, I've looked to see whether their reason for declining the claim is fair and reasonable."

My starting point is Miss S's contents insurance policy booklet. This sets out the terms and conditions and says Miss S is covered for loss or damage to her contents caused by fire. It defines 'Accidental Damage' as, "Sudden, unexpected and visible damage which has not been caused on purpose." Under a section headed 'Exclusions which apply to your whole policy' and sub-heading 'Existing and deliberate damage' it says RSA won't pay for "loss or damage caused deliberately by you or any member of your household." I can see our investigator has asked RSA

which specific term within the policy they're relying on in support of their decision to decline the claim – and RSA have referred to this term.

I understand Miss S initially informed RSA the fire was caused by an electrical fault. But, when RSA later queried this following receipt of the fire report, Miss S explained her children and her neighbour's children were in the summer house. She says they all then went to the park and that's when her neighbour alerted her to the fire in her garden. I've seen an email from the fire service to Miss S and this says, "...the Officer in charge deemed the fire to have been caused by a candle." The email refers to the fire report which says "Shed fire 100% involved – spreading to two neighbours fences. Youths aged 13 playing with candles. A Safe and Well was completed and advice given. Youths fully understood."

Taking this into account, I'm persuaded, it's more likely than not, the fire was started by children playing with candles. That being the case, I don't believe it's fair, in the circumstances of this case, for RSA to rely on the deliberate damage term to decline the claim. RSA haven't provided any evidence which shows either Miss S or her children deliberately caused the damage. Miss S's account is that she and her children weren't at home at the time of the fire, so this further persuades me that it's unfair for the deliberate damage term to be used here. I acknowledge Miss S originally informed RSA she believed the damage was caused by an electrical fault but, given that Miss S wasn't at home at the time of the fire, I don't believe it was unreasonable for her to initially believe it was down to an electrical fault. I can see from information provided by RSA that Miss S maintained this was the case. While I find the fire report to be most persuasive when deciding what the cause of the fire was, even if it was down to an electrical fault, then I still believe it's unfair for RSA to rely on the deliberate damage term.

RSA also refer to another section of the terms and conditions. This says, under the heading 'Conditions which apply to your whole policy' and sub-heading 'Taking Care', "You and any member of your household must take all steps to prevent or minimise loss, damage or accident and maintain the insured property in a sound condition and good repair." In their complaint response, RSA say, whether it was Miss S's children or her neighbour's children, it was clear that all steps to prevent loss, damage or accident weren't taken. RSA say they aren't arguing the event is uninsured, but more so that Miss S has breached this term within the policy.

RSA say, initially Miss S didn't inform them her children were playing with candles in the summer house – and this wasn't discovered until the fire report was received. RSA say the fire report doesn't explicitly state who's children caused the fire, but Miss S originally said it was her children but later changed her account and said it was the neighbour's children. RSA say, regardless of who's children caused the fire, they don't believe Miss S has taken reasonable care by allowing children to play with candles in an environment where there were flammable materials. They say they would expect children of the ages of 13 to understand the dangers of playing with fire and they believe this again demonstrates reasonable care has not been taken.

I've carefully considered RSA's points here, but I don't believe the information supports their view that Miss S didn't take reasonable care. I say this for a number of reasons. Firstly, Miss S maintains she and her children weren't at home at the time. So, I don't think it's fair for RSA to say Miss S hasn't taken reasonable care if she wasn't present at the time the fire started. I haven't seen any information from RSA which shows that Miss S was present in the summer house at the time and she was aware her children and/or her neighbour's children were playing with candles. I note RSA say Miss S hasn't taken reasonable care by "allowing" children to play with

candles, but I haven't seen any information which suggests Miss S was supervising the children or otherwise allowed them to play with candles. I don't think it's fair for RSA to treat Miss S as not taking reasonable care when there's no evidence which suggests she was present at the time, was fully aware that the children were playing with candles and didn't take any steps to prevent the damage which occurred as a result.

I think it's also important to make the point that the fire report doesn't specifically describe how the candles caused the fire to start. If a candle was lit and this was accidentally knocked over or fell, then I don't believe this suggests reasonable care wasn't taken. I accept though that there might well be other situations which might suggest reasonable care wasn't taken. But in this case, I've seen no persuasive evidence which suggests the actual action which led to the fire was a result of not taking reasonable care. I accept the fire report does use the term 'playing with candles' – but this in itself doesn't completely rule out that the specific event which caused the fire to start might've been accidental.

Taking this all into account, I intend to ask RSA to reconsider Miss S's claim. Given the incident circumstances RSA are relying on, I don't think it's fair for them to decline Miss S's claim on the basis the damage was deliberate or was caused by not taking reasonable care."

So, subject to any further comments from Miss S or RSA, my provisional decision was that I was minded to uphold this complaint and require RSA to reconsider the claim and pay compensation.

Following my provisional decision, Miss S accepted the decision. RSA haven't responded to the 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.

Having done so, and with both parties not providing any representations to dispute the decision, I see no reason to depart from my provisional decision. So, I've decided to uphold the complaint for the reasons set out in my provisional decision and copied above.

Putting things right

I've taken the view that RSA declined Miss S's claim on grounds which are unfair and unreasonable in the circumstances. So, RSA should reconsider Miss S's claim for the fire damage, in line with the remaining terms and conditions of the policy. It is of course open to them to make any other further enquiries they feel are necessary, but I don't think it's reasonable for them to use the arguments they have to decline the claim. In addition to this, RSA should also pay Miss S the £150 compensation they've offered in their complaint response, if they haven't done so already.

My final decision

My final decision is that I uphold the complaint. Royal & Sun Alliance Insurance Limited must take the steps in accordance with what I've said under "Putting things right" above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 29 August 2023.

Paviter Dhaddy
Ombudsman