

The complaint

Ms and Mr P complain about how Royal & Sun Alliance Insurance Limited dealt with and settled a claim they made following an escape of water.

What happened

In around August 2022, Ms and Mr P incepted a buildings and contents insurance policy via a broker, which I'll refer to here as "T". At the point that the policy was taken out Ms and Mr P say they informed T they were taking out insurance as executors of their late mother's estate, hereafter referred to as "the property". They say they informed T that in Mr P was intending to stay at the property on occasion. So, it advised Ms and Mr P to take out a holiday home insurance policy to cover irregular occupation at the property.

Ms and Mr P stated that, while Mr P would occasionally stay at the property, it had generally been unoccupied since July 2022. They confirmed that the heating system was not turned on from July 2022 until 4 December 2022 when Ms P attended the property and activated the heating in response to anticipated cold weather conditions.

Ms P said she subsequently visited the property on 11 and 17 December 2022. She explained that, during those visits, there was no evidence of any escape of water or damage to the property. However, when she attended the property on 23 December 2022, Ms P discovered that the upstairs bathroom, master bedroom, kitchen and lounge had sustained water damage due to an escape of water from the loft.

Ms P asked a plumber who lived nearby to attend the property and assist her in turning off the water supply. She said they identified that a burst pipe had caused the escape of water. They capped the pipe off and turned off the property water supply via the internal stop cock to prevent further damage occurring.

Ms P subsequently contacted RSA to report a claim. However, she explained that an agent of RSA informed her that the offices were closed and would reopen after the Christmas period.

Ms P said she had to chase RSA for an update about the claim during the week of 2 January 2023. She stated that, on 5 January 2023, she was contacted by RSA's appointed loss adjuster in order to arrange a visit to the property. Ms P thought that waiting almost 2 weeks to hear from the loss adjuster was unreasonable and had caused unnecessary delay in the progression of the claim.

RSA's appointed loss adjuster attended the property on 11 January 2023. Following that visit RSA declined to settle the claim as it stated Ms and Mr P hadn't adhered to a policy term that required them to maintain a minimum temperature within the property of 15 degrees at all times while it was unoccupied. It also informed Ms and Mr P that they hadn't kept records to demonstrate the property had been inspected as required by the policy.

Ms and Mr P complained about RSA's decision to repudiate the claim. They felt the purpose of the loss adjuster's visit had been to find reasons to repudiate the claim and they said there

had been no need to heat the property prior to 4 December 2022 because the inside temperature had been higher than 15 degrees at times when they'd attended.

When RSA responded to Ms and Mr P's complaint it didn't uphold it. It said the cause of the escape of water had been a pipe within the property that had burst due to freezing. And it informed Ms and Mr P that pipes can be weakened, damaged and burst due to freezing water. It explained that, while the property may have been heated at the time of the incident, there was no evidence that the temperatures at night had remained at 15 degrees or above prior to the date the heating system had been turned on. And it explained that the loss adjuster hadn't been appointed to find grounds to decline the claim.

Being dissatisfied with RSA's response to their complaint, Ms and Mr P referred it to our service. They wanted RSA to reimburse the costs they'd paid in reinstating the property and to settle the claim in their favour.

Our investigator looked into what had happened and empathised with Ms and Mr P but didn't recommend upholding this complaint. Our investigator was persuaded that RSA had acted fairly and reasonably in declining the claim. So, they didn't recommend RSA take any further action to resolve the complaint.

RSA agreed with our investigator's view of this complaint. But Ms and Mr P didn't and so I've been asked to decide the fairest way of resolving this complaint.

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.

There's no dispute that substantial water damage was caused to Ms and Mr P's late mother's property. And it's not in dispute that they notified RSA promptly on becoming aware of the damage. I'm satisfied, from the prompt action that Ms and Mr P took on discovering the escape of water, they took all reasonable efforts to mitigate their loss and prevent further damage occurring. That's not disputed by RSA. The disagreement here between Ms and Mr P and RSA is about the correct outcome of this claim.

The crux of this complaint is whether RSA treated Ms and Mr P fairly, in how it dealt with their claim. And I'll explain why I think it has. However, before I do I'd like to say I'm sorry to hear about the difficulties Ms and Mr P experienced here. They'd experienced a recent bereavement and I appreciate this has all been a stressful situation for them both. I'm sure Ms and Mr P thought, at the start, the claim was all going to be sorted out with minimal fuss. But that didn't happen and I know they feel very strongly about this matter.

Where the information I've got is incomplete, unclear or contradictory (as some of it is here) I must base my decision on the balance of probabilities. I'd like to thank Ms and Mr P and RSA for the level of detail contained within their submissions. I've read and considered all the information provided. But if I haven't specifically referred to a point that Ms and Mr P or RSA have made it isn't because I've failed to take it on board and think about it. It's because my decision will focus on what I think are the key issues, which is an approach that reflects the informal nature of this service.

There are several parts to Ms and Mr P's complaint and I think it will make things clearer if I deal with each issue separately.

Use of loss adjuster

Ms and Mr P have complained about the approach RSA took in dealing with their claim. It's clear from their submissions that they believe RSA appointed a loss adjuster for the purpose of finding grounds to decline the claim.

I can understand why Ms and Mr P may view the use of a loss adjuster negatively, particularly in circumstances where their claim was subsequently declined. But our service thinks it's right for an insurer to instruct a loss adjuster with expertise to inspect a policyholder's property to assist it in determining the cause of damage – particularly in a case where substantial damage has been caused to a property. There's no evidence here that indicates the loss adjuster acted in an unfair manner when dealing with this claim.

I can see that, prior to declining the claim, the loss adjuster recommended that RSA request additional information from Ms and Mr P. This included requesting copies of gas and electricity bills and written confirmation of property inspections. It's clear that the reason for this was to determine whether Ms and Mr P had complied with two specific terms of the policy that apply where a property is unoccupied – namely whether the property was maintained at a minimum temperature of 15 degrees at all times and whether inspection records have been kept.

This all indicates that a decision regarding whether to approve the claim hadn't been made at that stage. It wasn't assumed that Ms and Mr P hadn't adhered to the policy rather evidence was requested so that an informed decision could be taken by RSA. I can see that once the information was provided to RSA, it reviewed the documentation and declined the claim based on the policy terms not being adhered to. It follows that I don't believe the loss adjuster was instructed to attend the property with the purpose of declining the claim.

The terms of Ms and Mr P's insurance policy with RSA outline the limitations of cover very comprehensively. It's clear from the policy terms that unoccupied properties must be maintained at a constant minimum temperature of 15 degrees and inspection records must be kept. So, in the event that these two policy terms aren't adhered to RSA is entitled to repudiate a claim under the policy.

Inspection records clause

One of the reasons RSA declined Ms and Mr P's claim was because it says they failed to keep a record of the dates and times of all visits in a central inspection record. It further states that Ms and Mr P didn't provide a copy of that record when requested. As I mentioned, this is a policy term that applies to unoccupied properties.

The policy requires them to inspect the property *“internally and externally at least once every 30 days; keep a record of the dates and times of all visits in a central inspection record; and provide...a copy of the central inspection record when requested”*.

I've had sight of a visit log, which confirms Ms and Mr P visited the property on at least a weekly basis and the duration of time spent in the property. The alarm log that Ms and Mr P have shared with our service provides another source of evidence that these visits took place. I can see that the last visit to the property before the escape of water was discovered was on 17 December 2022.

I understand that the visit log wasn't provided to RSA when it was initially requested. And, from the available evidence, it appears Ms and Mr P informed the loss adjuster and RSA they hadn't kept inspection records when the property was visited while it was unoccupied.

The log Ms and Mr P has shared with our service isn't a central inspection record as the policy requires. I say this because it doesn't provide a summary of the nature of the

inspection during each visit. It simply confirms the date of the visit and length of time spent within the property. So, it doesn't specify what was inspected within the property and whether there were any concerns. It isn't clear whether the visit log was completed contemporaneously by Ms and Mr P or written down later.

Given the comments made to the loss adjuster and the fact that a central inspection record as required by the policy wasn't shared with RSA, I'm persuaded it wasn't unfair for it to conclude that the clause requiring the keeping central inspection records hadn't been adhered to by Ms and Mr P.

Minimum temperature clause

The other reason RSA declined this claim is because it says Ms and Mr P didn't maintain a minimum temperature of 15 degrees within the property at all times when it was unoccupied.

It isn't in dispute that the property had a thermostatically controlled fixed heating system installed. However, Ms and Mr P have confirmed that the heating system wasn't activated prior to 4 December 2022.

I understand that the boiler company that attended Ms and Mr P's property to repair the boiler following the escape of water confirmed that the cause of the issue that led to water damage was the condensate pipe freezing, which caused a part to fail within the boiler.

Ms and Mr P say the boiler engineer informed them a condensate pipe can only freeze when the boiler is in operation. They say this is evidence that the heating system had been operational during the cold weather when the damage occurred. But as I mentioned that isn't in dispute – RSA accepts the heating system was on from 4 December 2022 onwards.

Ms and Mr P contend that the failure to turn the heating system on prior to 4 December is irrelevant to the outcome of this claim. They say *"it not having been on during a prior period of prolonged mild weather had absolutely no causal effect to the burst pipe"*. Ms and Mr P say, when the heating system was turned on, they *"had to turn up the dial a good few degrees above 15 to get the boiler to click"*. They say this demonstrates that the inside temperature of the property was above 15 degrees.

Ms and Mr P have also argued that, even if the heating system had been set to 15 degrees prior to 4 December when the heating was activated, it's unlikely the boiler would have come on because the air temperature would have been too warm. They say this because *"2022 was the warmest year on record"*. But Ms and Mr P aren't able to prove the temperature remained above 15 degrees during the period when the heating system was off. So, while the property may have been heated at the time of the incident, there is no available evidence to show that the temperatures at night had remained at 15 degrees or above prior to 4 December 2022 when the heating system was turned on.

In its final response to Ms and Mr P's complaint, RSA explained that pipes can be weakened, damaged and burst due to freezing water. It stated the temperature requirement exists to aid in the prevention of pipes being damaged during periods of cold weather.

Ms and Mr P have confirmed they didn't inspect the loft or pipes during visits to the property. So, while there may have been no visible damage prior to 23 December 2022, it's plausible that the structure of the pipes may have weakened over time during periods of cold weather when the heating system wasn't turned on. And I accept what RSA says about cold weather, likely, compromising the structural integrity of pipes.

I've had sight of records to ascertain what the weather conditions were like in the locality of the property which show the lowest temperatures that were recorded from 9 November until 6 December 2022. These records are from a recognised data source used by our service and insurers to check historic weather conditions. And I'm satisfied the records are from the nearest weather station to Ms and Mr P's late mother's property.

From 9 November until 6 December 2022, I can see that there are no occasions where the reported minimum temperatures reach 15 degrees. The highest minimum temperature is reported on 11 November and is recorded at 14.2 degrees. So, there's cogent, reliable evidence that suggests that, if the heating system wasn't on, the temperature within property is likely to have been below the minimum stipulated temperature for a sustained period prior to the heating being turned on.

I'm sorry to disappoint Ms and Mr P but they haven't rebutted the evidence of the reported weather conditions I've seen. Given the reported weather conditions, I can't reasonably find that the temperature of the house must have been at 15 degrees or above because the weather conditions were mild. Temperatures can reduce significantly at night and I'm more persuaded by what RSA has said about the impact this can have on the structure of pipes.

The terms of Ms and Mr P's policy with RSA state that it won't settle a claim relating to an escape of water *"whilst the home is unoccupied, unless ... a thermostatically controlled fixed heating system is used to maintain a minimum temperature of 15 degrees C at all times"*.

As Ms and Mr P didn't adhere to this term at all times as required by the policy it would be unfair and unreasonable for me to direct RSA to settle the claim.

Awareness of the policy clauses

Ms and Mr P contend that they weren't aware that the requirement to set the heating system to a minimum temperature of 15 degrees. So, they say they didn't know the heating system had to be set to come on when the temperature dropped below 15 degrees at all times.

I recognise that the policy was taken out at the time of recent bereavement. However, the evidence satisfies me that the policy terms that have led to the claim being declined were set out in clear, unambiguous language in the policy documents that Ms and Mr P were sent by RSA. And I'm persuaded that there were opportunities after the policy was purchased where Ms and Mr P could have reviewed the policy to familiarise themselves with terms that applied to unoccupied properties and check whether the cover was appropriate.

Ms and Mr P appear to believe that the minimum temperature clause ought to have been drawn to their attention by T when they incepted the policy. Ms P has told our service she *"had assumed that all the essential terms of the policy had been covered"* in the call with T. But our service wouldn't expect a broker to outline all the terms in detail during the inception call. And, in any event, this is a complaint issue I can't address here as this complaint is about RSA and not T. Ms and Mr P will therefore need to raise any concerns about whether policy terms ought to have been explicitly drawn to their attention by T with it directly.

Delay

Ms and Mr P have argued that they experienced unnecessary delay in how their claim was handled, which they say worsened the damage the property sustained. I understand this situation was very distressing for Ms and Mr P. But claims for an escape of water can be complex and tend to take several months to resolve. It's inherent with such a claim that there will be stress and considerable inconvenience. Our role is to consider whether delay, stress and inconvenience was avoidable.

Here, Ms and Mr P discovered the damage on 23 December 2022. The loss adjuster visited the property to inspect the damage on 11 January 2023 and the claim was declined 12 days later. Being mindful of this chronology, I'm not persuaded there was unnecessary or unreasonable delays in how RSA assessed Ms and Mr P's claim. A month is a reasonable period of time to investigate and determine whether to settle an escape of water claim. This period also takes into account the impact of staffing levels during the Christmas and New Year periods. I haven't seen any evidence showing the damage worsened during this 4 week period while Ms and Mr P were awaiting confirmation of the outcome of their claim.

I'm persuaded RSA informed Ms and Mr P it was repudiating their claim as soon as it was able to make that decision. I recognise that Ms and Mr P are unhappy with the decision RSA reached here. But I can see it provided them with detailed explanations of why it had reached its declinature decision. I therefore don't think it's done anything wrong.

I appreciate that Ms and Mr P will be disappointed with my decision. But, for the reasons outlined, I'm satisfied that RSA acted fairly in declining this claim. So, I'm not going to ask it to take any further action to resolve this complaint.

My final decision

My final decision is that I don't uphold this complaint..

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms P and Mr P to accept or reject my decision before 25 March 2024.

Julie Mitchell
Ombudsman