

## **The complaint**

Mr and Mrs B complain that Royal & Sun Alliance Insurance Limited (“RSA”) declined a claim they made on their home insurance policy for damage caused by subsidence.

Mr B has primarily dealt with things so, for simplicity, I’ll refer to him only.

## **What happened**

The circumstances of this complaint aren’t in dispute, so I’ll summarise the main points:

- Mr B got in touch with RSA about damage to his conservatory in 2020. RSA appointed a loss adjuster, C, who carried out investigations, and said the damage had been caused by subsidence as a result of nearby vegetation.
- C declined the claim because they didn’t think the foundation was deep enough – and this amounted to defective design, which isn’t covered by the policy.
- Mr B didn’t think this was fair and complained. RSA maintained the claim could be declined. Noting delays in the complaint process, it offered Mr B £100 compensation.
- Our investigator thought the complaint should be upheld. She wasn’t satisfied RSA had shown the foundation design was defective. To put things right, she asked RSA to reconsider the claim, reimburse Mr B for the reports he paid for, plus interest, and increase compensation to £850 in total.
- RSA accepted what our investigator said. Mr B broadly accepted them too, subject to some queries, which I’ll summarise:
  - Which reports would he be reimbursed for?
  - Is it fair for RSA to ‘reconsider’ the claim? He thought it more appropriate for RSA to ‘accept’ the claim.
  - Would RSA carry out further investigations, such as monitoring, which could mean waiting much longer for the problem to be resolved?
  - Given the damage arose many years ago, and the vegetation responsible for it may be subject to preservation orders, he suggested RSA be required to carry out an engineered solution to resolve the claim promptly.
  - Should a timescale be set for RSA to take the next steps?
  - Would RSA be required to continue to provide home insurance, including subsidence, following the claim?
- An agreement wasn’t reached, so the complaint has been passed to me.

## **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.

- The policy covers damage to the property caused by subsidence – but not damage caused by “poor or faulty design, workmanship or materials”.
- There’s no dispute the damage has been caused by subsidence. And whilst the claim was originally declined for faulty design, following our investigator’s review, RSA has accepted that’s not the case. So this point is resolved and I don’t need to go into it any further.
- As that was the only reason RSA gave for declining the claim, and it no longer stands, I’m satisfied it would be fair for RSA to accept the claim. The remaining terms and conditions of the policy will still apply.
- I don’t think it would be appropriate for me to set out exactly how RSA should deal with the claim, including setting a specific timescale for it to do so. RSA is entitled to consider how to handle the claim. And there are too many variables involved in this claim for specific timescales to be practical.
- However, RSA is required to handle claims promptly and fairly, and I would expect it to keep that duty in mind when handling this claim – particularly given the delays that RSA has caused so far. It should also ensure that an effective and lasting repair can be carried out. In a subsidence claim, that means ensuring the structure is stabilised. Again, it will need to bear this in mind.
- There is numerous vegetation that could be having an impact on the subsoil beneath the conservatory. The next steps are for RSA, through C if it wishes, to establish which vegetation that is. Dependent on who owns the relevant vegetation, there are different steps RSA may need to take to have it removed. That could include monitoring. I know that would likely increase the length of the claim, but it isn’t unreasonable in principle, as monitoring can be an important investigation in a subsidence claim – particularly when seeking permission to remove vegetation. RSA should consider Mr B’s suggestion that it carries out an engineered solution. But at this stage it wouldn’t be fair for me to make a finding about the best way to handle the claim, so I won’t be telling RSA that it must take this approach.
- Our investigator asked RSA to reimburse Mr B the cost of the reports he’d paid for, plus interest. RSA agreed to this. Mr B did too, but he asked for clarification about which ones would be included. To bring finality to this matter, I’ll set out the details.
- Mr B paid £750 for advice from a structural engineer and £600 for a drainage investigation. He later paid £456 for arborist advice. That’s £1,806 in total. So that’s what I’ll require RSA to pay to resolve this point.
- Our investigator suggested RSA increase compensation from £100 to £850 to recognise the distress and inconvenience avoidably caused to Mr B by unfairly declining the claim. Both parties have agreed with this, so I won’t go into this point in a lot of detail. Having considered it myself, I’m satisfied this is a reasonable amount of compensation in the circumstances. If RSA has already paid the £100 it initially offered, it need only pay an additional £750.
- I don’t think RSA has refused to renew the policy, so I don’t think there’s a dispute for me to consider about this. So I can’t make any findings or an award on this point. But generally I would expect RSA to keep in mind the Association of British Insurers guidance on continuation of cover following a subsidence claim. And that would

usually mean offering continued home insurance cover, including subsidence, subject to some exceptions.

### **My final decision**

I uphold this complaint.

I require Royal & Sun Alliance Insurance Limited to:

- Accept the claim, subject to the remaining terms of the policy.
- Pay £1,806 for the reports.
- Pay interest on each invoice at 8% simple per year, from the date Mr B paid each invoice to the date of settlement\*.
- Pay a total of £850 compensation.

\*If RSA considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr and Mrs B how much it's taken off. It should also give Mr and Mrs B a tax deduction certificate if they ask for one, so they can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B and Mrs B to accept or reject my decision before 3 May 2024.

James Neville  
**Ombudsman**