

## **The complaint**

Mrs D and Mr D complain about how Royal & Sun Alliance Insurance Limited (RSA) handled a claim under their home insurance policy for damage to their property from a leak.

RSA use agents to administer the policy and to assess claims. Reference to RSA includes these agents.

## **What happened**

In March 2023 there was damage to a kitchen ceiling at Mrs D and Mr D's property, which they thought came from a leak to a bathroom shower above the kitchen. They contacted RSA to tell them about the damage and lodge a claim. RSA approved trace and access to find and fix the leak, as well as appointing a surveyor (B) to assess the damage. Mrs D and Mr D engaged a plumber, who diagnosed the leak came from pipework concealed behind the shower and had been leaking for some time.

B inspected the property the following month and produced a report. The report raised issues about the circumstances of the claim and whether the damage was consistent with the circumstances, so RSA appointed a separate firm (A) to further assess the claim. As part of this, A held a video interview with Mrs D and Mr D to discuss the claim.

Based on B's report and A's assessment of the claim, RSA offered £2,915 (net of the policy excess of £250) as a cash settlement. The settlement included the cost of trace and access (£490), replacement of the shower £1,270), repair of the bathroom ceiling, walls and floor (£485), repair to the kitchen ceiling (£320) and other costs (£600). But Mrs D and Mr D weren't happy with the settlement as they didn't think it was enough to enable them to repair all the damage they said the leak had caused.

They were also unhappy that a previous claim for damage from an escape of water in 2021 had been declined by RSA, on the grounds the damage was caused by rot (and likely to have occurred before RSA became the insurer of the policy) so wouldn't be covered under the policy. Mrs D and Mr D felt the damage in 2023 stemmed from the previous escape of water and had been ongoing since 2021, so it should be covered.

Mrs D and Mr D were also unhappy at being offered a cash settlement rather than RSA appointing their own contractors to carry out the repair work. But RSA said that wouldn't be possible as the overall repair work would include work they would cover (from the 2023 leak) but also work they wouldn't (from the declined claim in 2021). They didn't want the contractor to carry out repair work they thought the responsibility of Mrs D and Mr D.

Mrs D and Mr D complained to RSA. They were also unhappy the video interview had failed to record audio.

In their final response, RSA upheld the complaint in part. They accepted the audio hadn't worked in the video interview, due to technical issues (though A and Mrs D and Mr D had been able to converse by phone during the interview). On the claim itself, RSA said they'd assessed it alongside review of the claim declined in 2021. They referred to a cause of damage report at that time indicating the issues was rising damp caused by the breakdown

of the existing damp proof course, as well as rot. Based on this RSA verbally declined the 2021 claim and, because Mrs D and Mr D didn't provide a further cause of damage report, the claim was closed.

On the 2023 claim, RSA said they wouldn't cover damage to the kitchen floor as Mrs D and Mr D hadn't mitigated the damage found in 2021 by not repairing the rotten floor. On the settlement offered, RSA said the leak damaged the kitchen ceiling, so would be covered. RSA also confirmed the settlement offer of £2,915.

Mrs D and Mr D then complained to this Service. They were unhappy at the cash settlement offered and that it didn't cover all the damage they thought had resulted from the leak, which included areas RSA said they'd considered as part of the 2021 claim (which they declined). They were also unhappy at the audio failing in their video interview with A, as they said the discussion had supported their view. They wanted RSA to settle the claim to include repair of all the damage they said had been caused by the leak.

Our investigator didn't uphold the complaint, concluding RSA hadn't offered a settlement that was unfair in the circumstances of the claim. From the reports prepared by B and A, the investigator didn't think RSA should cover any of the damage claimed for in 2021, declined on the grounds of rot and rising damp. As no repairs to the damage that occurred in 2021 had been undertaken, then there had been no attempt to mitigate the loss. On the 2023 claim, the investigator thought RSA were responsible for the damage caused by the leak, including trace and access, repair to the pipe and shower and to the kitchen ceiling. But not any costs associated with the kitchen flooring or removal of cupboards. The cash settlement offered was reasonable.

Mrs D and Mr D disagreed with the investigator's view, saying the investigator hadn't given them the opportunity to submit all the evidence and information they thought supported their case. The investigator considered the further evidence and information submitted by Mrs D and Mr D but maintained their view not to uphold the complaint.

Mrs D and Mr D didn't agree with the investigator's view and requested an ombudsman review the 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.

My role here is to decide whether RSA have acted fairly towards Mrs D and Mr D.

Looking at the complaint and what happened, the key issues are the settlement of the claim made in 2023, which RSA consider fair to cover the damage caused by the leak identified in 2023. Mrs D and Mr D disagree, saying it doesn't cover all the damage and the work needed to repair it. Second, the decision to decline the claim in 2021 on the grounds the damage wasn't caused by an insured peril; was caused by rot and damp and anything that occurs gradually; and the damage occurred prior to the inception of the policy in July 2021 (the claim was lodged in September 2021). Thirdly there's the specific issue of the loss of audio from the video interview between Mrs D and Mr D and A in 2023.

In considering the issues and the respective views of Mrs D and Mr D and RSA, I've looked carefully at all the information and evidence they've provided. This includes the further evidence and information provided by Mrs D and Mr D in response to the investigator's view. While I may not comment specifically on every piece of information, I have looked at everything provided (and everything provided by RSA).

As it occurred before the 2023 leak and claim, I've first looked at the decline of the claim in 2021. From what I've seen, the only cause of damage report produced at the time concluded the damage was caused by rising damp, a result of the existing damp proof course becoming bridged and breaking down. Mrs D and Mr D contested this, saying the issue was due to leaking drains. But there's no indication of any further cause of damage report to support this – or contradict the initial cause of damage report – so RSA verbally declined the claim and closed it. So, I've concluded the evidence supports the conclusion the damage was due to damp/rot.

Looking at the policy document, the relevant terms and conditions cited by RSA to decline the claim are as follows.

*Section M – General Exclusions* includes the following:

*“Rot*

*Any loss or damage caused by wet rot or dry rot whether or not this was caused directly or indirectly by any other cover included in this insurance.”*

*“Events before the insurance starts*

*Any loss, damage, liability, cost or expense of any kind which occurs as a result of an event before the period of insurance starts.”*

*“Wear and tear*

*Any loss, damage, liability, cost or expense of any kind caused by or resulting from...damp...or anything which happens gradually...”*

Taken together with the cause of damage report, I think these exclusions are clear and RSA acted fairly and reasonably in applying them to decline the 2021 claim. Given the nature of the damage, as the claim was made two months after RSA became the insurer, I think it reasonable to conclude the damage occurred as the result of an event that occurred before the policy began.

Subsequent to decline of the claim, I've seen a quote from the same contractor who prepared the cause of damage report, part of which includes work on damp proofing. Which would be consistent with the cause of damage report. However, there's no indication the work was carried out and therefore any such damage (including to ground floor flooring) would reasonably be held to be pre-existing. It would also be reasonable to conclude Mrs D and Mr D didn't mitigate the damage by having it repaired.

I've also noted the report from Mrs D and Mr D's plumber – which I quote from later in this decision – doesn't mention ground floor flooring, nor whether the leak would have been present in 2021 (it only refers to the leak 'happening for some time'). So, I've concluded RSA acted fairly in applying the exclusions set out above to decline the 2021 claim. It follows that any damage observed at that time would be pre-existing in 2023, when the shower leak was identified. So, it wouldn't be reasonable for it to be covered under the 2023 claim.

Turning to the 2023 claim, I've again considered the evidence and information provided, including the reports and evidence from B, A and from Mrs D and Mr D's plumber who investigated and fixed the leak.

I've first considered the description of the work carried out by Mrs D and Mr D's plumber in tracing the cause of the leak and fixing it (the trace and access cost of £490 included in the settlement). The key extracts are as follows:

*"I was called out to the property to locate the cause of water damage to the kitchen ceiling which I ascertained to be coming from the bathroom upstairs after I removed the fridge, part of the kitchen units and a section of damaged ceiling. Where I found wet floor joists and signs of damp running down the kitchen walls and a musty smell. In my opinion this had been happening for some time...after freeing the [shower] unit I was able to locate the cause, a flexible tubing connected to the shower mixer valve...I can report in my opinion that this must have been leaking for quite a while and getting worse over time..."*

I've then considered the report from B's inspection. Which includes the following statements about the damage to the kitchen:

*"There is damage to the ceiling, this looks to have been caused over a period of time from a leak from the shower. Where the water has been tracking down the walls it has reached an air brick and tracked down the external walls. The water has tracked down the walls and to the floor boards. The floor has now begun to sag. There is pre-existing damage to the floor tiles...A lot of the damage to the kitchen does appear to be due to an ongoing issue and is not due to a one-off event."*

The report also covered damage to the dining room, including the floor, concluding it due to damp, inconsistent with damage to the kitchen and unrelated to the leak from the shower. Regarding the damage to the bathroom, the report notes:

*"The policyholder has stripped out the shower unit and found a leak in the corner, which the policyholder believes has caused all the damage downstairs. There is no evidence of what the policyholder has advised, there is pre-existing damage to the floor tiles which is unrelated to an escape of water."*

The report concludes:

*"...The damage is not consistent with the claim circumstances and has been ongoing for some time."*

A's report is less detailed, but it's consistent with B's report. Both include the breakdown of the settlement offered by RSA.

Looking at the settlement offered and what it includes, given my conclusions about the damage previously claimed for (and declined) in 2021 then I think it reasonably includes what I would expect from a leak from the shower. That is, primarily the shower unit and repair of the damage to the bathroom and the kitchen ceiling. It also includes the invoiced cost of trace and access from Mrs D and Mr D's plumber, which the policy terms and conditions also cover.

There is a specific point about removal of the kitchen units, which RSA say would be need to repair the flooring (which they wouldn't cover). As that would enable the work on the kitchen ceiling to be carried out as well, I think that's fair and reasonable.

In offering a cash settlement, rather than the option of their own contractors carrying out the repair work, the policy terms and conditions provide for this and that it's RSA's decision to make about how to settle a claim. So, in offering a cash settlement, RSA acted in line with the policy terms and conditions.

On the third issue, the absence of audio from the video interview, I think that's unfortunate. But technical issues can arise, and Mrs D and Mr D have provided no evidence it was deliberately erased. Particularly as from what I've seen, the discussion was able to take place over the phone. Which wouldn't have been necessary had the audio been clearly working. In addition, even without it, the evidence and information I've referred to above are sufficient to support the decision taken by RSA to decline the claim. So, it's absence wouldn't have affected the outcome. While Mrs D and Mr D say the discussion supported their view, there's no evidence to support this assertion.

Taking all these points together, then I've concluded RSA acted fairly and reasonably in declining Mrs D and Mr D's claim in 2021 and the settlement they offered in respect of the 2023 claim. So, I won't be asking them to take any further action.

### **My final decision**

For the reasons set out above, it's my final decision not to uphold Mrs D and Mr D's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs D and Mr D to accept or reject my decision before 15 March 2024.

Paul King  
**Ombudsman**