

The complaint

C, a limited company, complains that Royal & Sun Alliance Insurance Limited (“RSA”) has unfairly charged two policy excesses for a subsidence claim under their buildings insurance policy.

What happened

The detailed background to this complaint is well known to both parties, so I’ll only summarise the key events here.

C owns a property which they let out. In August 2022, they were informed by their tenants that cracking had appeared to the front elevation, so they made a claim to RSA under their buildings insurance policy.

RSA arranged for loss adjusters to inspect the property. On doing so, they found cracking to both the front and rear elevations which they considered to be subsidence.

An arborist was instructed who confirmed that the damage appeared to be consistent with clay shrinkage caused by vegetation, but that there was a possibility it was also influenced by the hot and dry summer conditions experienced that year. They recommended removal of the vegetation identified as being the likely cause of the problem.

Based on this advice, RSA said there were two separate claims for subsidence which, if accepted, would require C to pay two policy excesses of £1,000.

RSA accepted the claim for the front elevation. But it said, in order to determine whether it could accept the claim for the rear elevation, it would need to ascertain whether the extension’s footings had been made deep enough to cope with surrounding vegetation, carry the weight of the building, and are in line with building regulations.

C didn’t think it was fair for RSA to charge two excesses, so they raised a complaint. They said the cracks must have developed simultaneously given the property is a small, single storey building and the cause of the subsidence is the same. They said this was supported by the loss adjuster’s actions in arranging for both areas of vegetation to be removed.

RSA maintained its position that two policy excesses are applicable and confirmed that the vegetation to the rear had been removed in error because it hadn’t yet accepted that claim. But it upheld two other complaint points C had raised; namely that RSA should monitor the property before carrying out repairs to the building and that there’d been poor service and delays.

C brought his complaint about the excesses to our Service. But our Investigator didn’t uphold it. She said the expert evidence provided by RSA was that there were two areas of crack damage which was thought to have been caused by two areas of vegetation. There was no contrary professional opinion that the cracking to the property was one incident arising from one cause.

As C didn't accept this outcome, the complaint has been passed to me to decide.

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'd like to reassure C that whilst I may have condensed what they've told us in far less detail and in my own words, I've read and considered all their submissions in full. I'm satisfied I've captured the essence of the complaint and I don't need to comment on every point individually, or possibly in the level of detail they'd like, in order to reach my decision. This isn't meant as a discourtesy, but simply reflects the informal nature of our service.

The terms and conditions of C's policy say there is a £1,000 "contribution" for an "event" of subsidence defined as *"the first part of each and every claim"*. The policy defines "event" as *"one occurrence or all occurrences of a series consequent on or attributable to one source or original cause"*.

I can understand why C believes this is one claim; there are cracks to their property arising from clay shrinkage subsidence caused by vegetation.

But the expert opinion of the loss adjuster and arborist is that there are two distinct areas of cracking caused by two different areas of vegetation. Specifically, the cause of the cracks to the front elevation are thought to have been caused by two shrubs immediately to the front of the property. And the cause of the cracks to the rear elevation are thought to be caused by two different shrubs and a tree in the rear garden.

I've seen no conflicting professional opinion to challenge RSA's expert. So I have nothing to persuade me that this is subsidence affecting the property as a whole – i.e. one continuous set of damage affecting all elevations or the same underlying cause – i.e. a tree or shrub affecting both areas at the same time.

Rather, it seems to me that either area of subsidence could've occurred independently of the other, they're not interlinked nor is there any overlap. On that basis, I don't think it's unreasonable for RSA to conclude that these are two separate events as they're not a series of occurrences arising from one source or cause.

If C wishes to challenge this further, they can obtain a professional opinion at their own cost and provide this to RSA in the first instance. But I can only consider the complaint on the information available. And, as it stands, the two areas of subsidence are thought to have been caused by different shrubs in different locations, making this damage two separate claims.

My final decision

For the reasons I've explained, I don't uphold this complaint.

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

Sheryl Sibley
Ombudsman