

The complaint

Mrs L complains that Royal & Sun Alliance Insurance Limited ("RSA") caused delays in dealing with a claim under her building insurance policy, then incorrectly diagnosed cracking as subsidence, causing her property sale to fall through.

Where I refer to RSA, this includes the actions of its agents and claims handlers for which it takes responsibility.

What happened

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

In November 2022, Mrs L made a claim under her buildings insurance policy as she'd found cracking to internal and external walls of her property. RSA arranged for a surveyor to attend, and a site visit took place in January 2023.

Mrs L tells us that she was assured by the surveyor that the cracking was nothing to worry about, and likely as a result of an extreme summer.

Based on this advice, Mrs L put her property on the market and by April 2023 she'd accepted an offer. She asked RSA for the surveyor's advice in writing, but she says she was told it couldn't confirm the cause of the cracks because no tests had been carried out.

A further site visit was arranged, and subsidence was confirmed to be the cause. As a result of this, Mrs L's buyers pulled out of the sale.

Mrs L employed a team of builders to carry out the repairs recommended by RSA, but they were dubious of the subsidence diagnosis and recommended she get a second opinion. Mrs L says she took professional advice which reassured her that the cracking wasn't subsidence. Mrs L returned to RSA who, after further consideration of the claim, agreed.

Mrs L complains that RSA's actions led to financial losses. She says she'd served notice on her tenants due to the sale, but then lost her buyer as a result of RSA's incorrect diagnosis of the cracking. She says she's been unable to sell the property since.

RSA disagree with Mrs L's version of events. It says the suspected cause of the cracking from the site visit in January 2023 was clay shrinkage (subsidence), and the claim was ongoing when Mrs L opted to put the property on the market. It said it received a call from Mrs L in April 2023 asking to withdraw her claim as she had a buyer, but she was advised that as investigations were ongoing, the claim couldn't be closed.

RSA does accept that its diagnosis of subsidence was later confirmed to be incorrect. And it acknowledges there were delays in its claims handling. It's offered compensation of £400 to put things right. But it takes no responsibility for the loss of Mrs L's buyers; it says Mrs L chose to put her property on the market amid a claim when the cause of cracking was undetermined.

Mrs L brought her complaint to our Service. But our Investigator was satisfied RSA had made a fair offer of compensation for what had gone wrong, and he didn't think it needed to do anything more. As Mrs L didn't agree, 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 Mrs L that whilst I may have condensed what she's told us in far less detail and in my own words, I've read and considered all her submissions. 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 she'd like, in order to reach my decision. This isn't meant as a discourtesy, but simply reflects the informal nature of our service.

As the facts of the case are disputed, I've looked at the available evidence to determine what's more likely to have happened, based on the balance of probabilities.

I can see that Mrs L made her claim in November 2022. RSA's system notes show that Mrs L informed it that her tenants had recently vacated the property, and cracking had been found to internal and external walls.

RSA's system notes show that it attempted to contact Mrs L to arrange a site visit in November, but it couldn't get hold of her. An email was sent on 15 December advising Mrs L of the importance of assessing the damage as soon as possible.

Contact was subsequently made, and a site visit was arranged for 4 January 2023. I've been provided with a copy of this report which confirms the suspected cause of the cracking to be clay shrinkage (subsidence). It says:

"Photos provided of internal damage prior to redecoration, appears to be some differential movement of the bay away from the main property. Bay not tied into main wall, but is an original feature and understand no previous issues. Movement has occurred following hot/dry spell during recent surge of subsidence claims. Suspect movement due to drought/clay shrinkage type subsidence."

The report states the previous tenants had vacated the property before the claim was made, and that the internal cracks had been repaired and decorated in preparation for new tenants.

On 12 January 2023, an email was sent to Mrs L attaching a letter. RSA's system notes advise the letter confirmed that boreholes and trail pits were needed to determine liability.

Following this, RSA arranged for a site investigation to take place. I can see from the system notes that Mrs L called RSA for an update in March 2023 as this hadn't happened. She was informed that an appointment would be chased, and I can see an email was sent to RSA's agents that day.

In April 2023, the system notes show Mrs L called RSA requesting to withdraw her claim. The notes say that Mrs L said she was trying to sell the property and didn't want to go ahead with the works as she didn't believe the damage was subsidence.

Mrs L contacted RSA again in May 2023 as she hadn't heard back. A call took place later that day and a follow up email confirmed what was discussed, an extract of which is below:

“Thank you for taking my call this early afternoon. We have discussed your concerns, noting a perspective purchaser has made an offer on the risk address and you have accepted this & wondered if you should withdraw your subsidence claim.

I note however, your claim at this juncture is non-determined, pending results of the site investigation – off the front right corner to your bay, noting also said has been instructed and the site investigation company have been asking for a date to undertake, although you have placed them on hold as you wanted advice surrounding moving forward or withdrawing your claim.

I understand you agree to permit us moving forward as normal with your subsidence claim and once the site investigation findings are to hand, we will then write to you, enclosing a copy of the findings advising as to validity.”

The site investigation took place on 24 May 2023 and the laboratory test reports were sent to RSA in July 2023. Based on this, RSA concluded that the damage was caused by subsidence and an arborist was instructed.

In September 2023, the system notes show Mrs L called for an update as she hadn't heard anything. The arborist was chased and a site visit took place on 14 September 2023. The report states:

“Based on the technical reports currently available, engineering opinion and our own site assessment we conclude the damage is consistent with shrinkage of the clay subsoil related to moisture abstraction by vegetation. Having considered the information currently available, it is our opinion that H1 and SG1 are the principal cause of or are materially contributing to the current subsidence damage.

If an arboricultural solution is to be implemented to mitigate the influence of the implicated trees/vegetation we recommend that H1 and SG1 are managed. Other vegetation recorded presents a potential future risk to building stability and management is therefore recommended.”

In early October 2023, Mrs L called RSA to log a complaint. The system notes show Mrs L was unhappy with the delays and lack of communication, and she'd been told by the buyer's surveyor that the damage didn't look like subsidence. She said her neighbour had the same issue which was not subsidence.

RSA agreed to revisit the property and in November 2023, the cracking was found to be a result of seasonal movement, rather than subsidence.

Based on the evidence available, I'm satisfied that there were times when RSA could've progressed this claim more promptly. There were times when Mrs L had to call for updates, and it took several weeks for her to get a meaningful response. That said, there were also times when the claim was delayed for reasons outside of RSA's control.

I can see that the initial delays in November and December 2022 were as a result of RSA being unable to get hold of Mrs L. And in April 2023, it came to light that she'd put the site investigation on hold as she wanted to withdraw the claim. There were also times when RSA were awaiting lab test results and expert reports.

I'm also satisfied that RSA incorrectly diagnosed the cracks as being subsidence, as this is not in dispute.

For the delays which RSA are responsible for and the incorrect diagnosis of the claim, Mrs L should be compensated.

But I don't agree that Mrs L has any further financial loss which I can fairly hold RSA responsible for. I say this because the evidence doesn't suggest to me that Mrs L served notice on her tenants and put her property on the market as a result of anything RSA did or didn't do.

Rather, the evidence suggests Mrs L's tenants had already moved out by the time the claim was made and she was preparing for new tenants. And that Mrs L's decision to put her property on the market was made with the knowledge that her claim was ongoing and no final determination of the cause of the cracking had been made. This is supported by the fact that Mrs L called RSA in March 2023 asking for an update on her claim, which is after she'd put the property on the market. And she'd attempted to withdraw the claim in April 2023 when she'd received an offer. These aren't the actions of someone who believes their claim has been concluded.

Once RSA accepted the cracking was not caused by subsidence and the claim was closed in November 2023, it's unclear how any later challenges to sell the property could have been caused by RSA. Mrs L hasn't provided any evidence to show that she's marketed the property for sale since that time and what specifically has prevented it from selling. So I can't fairly hold RSA responsible for this.

Overall, I'm satisfied RSA's offer of £400 compensation is fair and reasonable in the circumstances of this complaint. And as this has already been paid, I'm not directing it to do anything more.

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 Mrs L to accept or reject my decision before 10 March 2025.

Sheryl Sibley
Ombudsman