

The complaint

Mrs N and Mr N complain about Royal & Sun Alliance Insurance Limited's handling of their subsidence claim.

What happened

The background to this complaint is well known to both parties, so I'll give only a brief summary here, concentrating on the key issues. I can assure both parties that I've read and taken into account all of the information they've provided.

When I refer below to actions taken or information provided by RSA, this may include actions taken or information provided by their agents.

There are two complainants in this case. I'll refer below mainly to Mr N as he's been our primary contact throughout our investigation.

Mrs N and Mr N have an insurance policy underwritten by RSA which covers their home and its contents. They made a claim in September 2020 after discovering cracks in the walls of their house.

RSA appointed a loss adjuster, who carried out an inspection in December 2020. They said the damage to the home was caused by subsidence, very likely caused by a large tree just outside the boundary of the property. On that basis, RSA accepted the claim.

The loss adjuster's report recommended removal of the tree, a period of monitoring and then repairs to the damage. The anticipated closure of the claim – with all repairs completed – was September 2021.

It took until June 2021 for the loss adjuster to get confirmation from the landlord of the neighbouring property that the tree belonged to the local authority.

The local authority confirmed to the loss adjuster that the tree had been felled in February 2022.

In June 2023 (well over a year later), the loss adjuster told Mr N that the mitigation work was complete and that his house was now stable and not moving. They said no further monitoring was necessary and they could proceed to repairs to the house.

Mr N wasn't convinced by this. He thought the house was still moving because the cracks appeared to be getting worse and wider. He commissioned his own surveyor's report, which was carried out in November 2023.

This confirmed that the damage was caused by subsidence and that the likely culprit was the large tree which has been felled.

However, the surveyor said that before repairs were carried out, there should be further investigations. These should include a drainage survey, given that the tree's roots may have caused damage to the underground drainage pipes at the rear of the house.

Mr N provided a copy of the report to RSA. And he made a formal complaint to them about the delays and about the loss adjuster's insistence that no further monitoring or investigation was required at the property.

Only at this point – after Mr N's complaint - the loss adjuster visited the site again and then commissioned a further survey at the property (carried out in early April 2024). This included a CCTV survey of the drains, which were found to be in good repair. There was also an attempt to dig a trial hole and take a bore sample – but this failed because the soil was too stiff.

RSA responded to Mr N's complaint on 24 April 2024. They said no further monitoring was necessary and that repairs could begin.

They also said the delays in the claim were entirely the responsibility of the local authority. However, they admitted the service provided to Mrs N and Mr N could have been better and that communications were at times poor.

On that basis, they offered Mrs N and Mr N £250 in compensation for their trouble and upset. About a week later (on 1 May 2024), after further communication with Mr N, they increased the compensation offer to £500.

Mrs N and Mr N weren't happy with this and brought their complaint to us. They thought RSA hadn't acknowledged the significant and avoidable delays in the handling of the claim. And they maintained that further investigation and monitoring were necessary – because the cracks were getting worse.

Our investigator thought the compensation for Mrs N and Mr N's trouble and upset should be increased to £1,250 in total. She thought RSA had caused significant delays, which were avoidable. And she thought the stress caused by living in a home with severe cracking, seemingly without an end in sight, was considerable.

She also said RSA should carry out a further period of monitoring before they concluded that the house was no longer moving, given that Mr N reported the cracks to be getting worse and RSA had carried out little or no monitoring of the movement.

RSA disagreed. They said no further monitoring was necessary. And the compensation proposed was excessive – because the delays (bar a nine week delay in reviewing the schedule of works) weren't their fault.

Mrs N and Mr N broadly agreed with the investigator's conclusions, but felt the compensation proposed was insufficient. They also said RSA hadn't reimbursed them for the cost of their surveyor's report (£510). RSA agreed to pay those costs.

Because neither party accepted our investigator's view, the case was referred for a final decision from an ombudsman.

After that referral, RSA contacted us to say that, as part of an investigation into a further complaint made to them by Mr N (about which, I'll say more below), they'd reviewed the claim as a whole.

That review had identified another large tree – at the front of the property – which may be causing subsidence and consequent damage to the property itself.

As a result, they proposed to carry out further investigation and monitoring to determine whether the property was in fact now stable and free from further subsidence-related movement. And they said they were now willing to pay the compensation proposed by our investigator.

We put that offer to Mrs N and Mr N, but they didn't accept it and asked that we continue to a final decision on the case.

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 scope of our investigation and this decision

After our investigator issued her view on this case – and then referred it for a final decision – Mr N made further complaints about RSA's conduct in this matter.

In brief, he accuses RSA and their employees and/or agents of fraud, manipulation of evidence, fabrication, and failure to respond appropriately to a data protection subject access request, amongst other things.

RSA have treated that as a new complaint and, as I understand it, are dealing with it as such.

Mr N objects to this. He wants us to look into these accusations as part of his existing complaint. We've advised him that we can't legally do so. Because of that, he's accused us of "*procedural failure*" and "*a fundamental ethical breach of your obligations*" (his own words).

The Financial Conduct Authority's (FCA's) dispute resolution (or DISP) rules establish the framework within which our service operates. Those statutory rules set out our powers and scope. We can't ignore those rules and/or to act in a way which contravenes them.

The DISP rules say that - unless a respondent business specifically consents to it – we can't look into a complaint unless and until the business has had an opportunity to consider and/or resolve that complaint themselves.

Mr N's complaint to RSA – the final response to which was issued in April 2024 – was about delays and poor service in the handling of the claim and RSA's refusal to carry out further investigation or monitoring before moving to repairs.

RSA had the chance to consider and resolve that complaint. When they failed to resolve it to Mrs N and Mr N's satisfaction, they were entitled to bring *that complaint* (and only that complaint) to our service – which they did. And it's the issues raised in that complaint (and only those issues) that we're empowered to investigate.

So, our investigation – and this decision – can only consider the issues Mrs N and Mr N had already raised with RSA before they brought their complaint to us.

And that means, we can't look into the more recent allegations of fraud and fabrication (and so on) as part of this complaint and this decision.

It also means that any compensation we award covers only the time period up to RSA's final response to Mrs N and Mr N's complaint on 1 May 2024.

If Mrs N and Mr N wish to complain about any delays after that point and/or indeed any future delays – and/or any other issues arising after 1 May 2024 - they'll need to make a new complaint to RSA and then bring it to us if they aren't satisfied with RSA's response.

And, as I say, my understanding is that RSA are already considering a further complaint from Mr N about the conduct of their employees and/or agents. Mrs N and Mr N will of course be entitled to bring that complaint to us in due course, should they wish to do so, once they have a response from RSA (or if RSA fail to respond in a timely manner).

The delays, poor service and refusal to monitor movement

Until very recently, RSA have denied that they were responsible for any significant avoidable delays in the progress of the claim.

They've said the compensation they offered reflected one instance when Mr N was promised a call back and didn't get it, plus a few weeks' delay in the preparation of a schedule of works.

This line appears to emanate from the loss adjuster. RSA's complaints handlers have then simply passed that on to Mr N – and then to us.

The claim was made in September 2020. The loss adjuster planned to take out the tree, monitor movement for a reasonable period of time and then carry out repairs – and said all of that would likely be complete by September 2021.

That's one year. A reasonable timeframe given the nature of the claim and what the loss adjuster had – at that stage – identified as needing to be done. And here we are in 2025. Mrs N and Mr N's home has still not been repaired.

And, in fact, RSA's recent review has now identified further investigations and monitoring that need to be carried out. These relate to potential damage caused by another tree - which was there in 2020 when the claim was first made.

In essence, RSA have now admitted that the review they've carried out shows that they were likely wrong all along when they said that the cause(s) of the subsidence had been fully mitigated (the tree that was felled) and that no further monitoring was required because the movement had ceased.

Mr N has said all along that the cracks were getting worse. RSA and/or their agents refused to accept that and refused to carry out further monitoring. And now RSA's review shows that Mr N was very likely right all along.

Looking at the timeline for the claim – provided by RSA - it took the loss adjuster nine months to find out who owned the tree. Even if other parties aren't responsive, that's not acceptable.

The tree was felled in February 2022. There was no further mitigation or monitoring after that point. But the loss adjuster didn't contact Mr N to say that they were ready to move to the repair stage until June 2023 – a year and a half after the tree was felled.

For RSA then to deny responsibility for any unnecessary and avoidable delays is, frankly, beyond my understanding. I can completely understand why Mr N is annoyed and frustrated at RSA's stance. For the loss adjuster to say that all of the delays in the claim were the fault of the local authority is absolute nonsense – they'd felled the tree by February 2022 and that was their involvement at an end.

In short, Mrs N and Mr N have received shockingly poor service almost throughout the period of their claim (other than the first few months). The loss adjusters have not kept them informed and have ignored requests for contact. The net effect being that Mr N has frequently had to chase them for updates and/or progress, which he should not have had to do.

The claim is still not resolved. And RSA's review has identified issues (caused by the other tree) which could – and should – have been identified at the outset, or very soon thereafter.

The fact that this claim is on-going, four and a half years after it was made, is shocking. RSA's agents failed to identify all of the causes of the damage, failed to act in a timely manner, and failed to provide acceptable customer service. RSA and their agents have refused until very recently to accept any responsibility for their clear and very significant failings.

Putting things right

Mrs N and Mr N have experienced substantial worry, upset and distress – and serious disruption to their daily lives - over a prolonged period, due to RSA's errors or omissions.

A claim such as this one will always cause anxiety and inconvenience, even when handled well and in a timely manner. For Mrs N and Mr N that anxiety and inconvenience has been extended over a far longer period than was necessary due to the avoidable delays and errors in RSA's (and/or their agents') handling of the claim.

On that basis, I agree with our investigator that £1,250 in total is fair and reasonable compensation for Mrs N and Mr N's trouble and upset.

It seems everyone is also agreed that RSA should pay for the costs associated with Mr N's surveyor's report. I understand this amounts to £510. I'm going to require RSA to add interest to that amount – at 8% simple per annum – calculated from the date Mr N paid for the surveyor's report to the date RSA reimburse him. Mr N has been out of pocket by that amount for that period.

In terms of the next steps, these have been identified through RSA's recent review of the claim. RSA will now need to carry out whatever further investigations are necessary to determine the impact of the second tree (at the front of the property), carry out any necessary mitigation, monitor the house for movement over an appropriate period and then carry out repairs to the structure of Mrs N and Mr N's home.

It's not for me to set a timetable for these steps. It wouldn't be possible to do that right now – and RSA will need to ensure that the appropriate decisions are made at the right time as the claim progresses, taking whatever expert advice is necessary.

However, I hope it goes without saying that these steps need to be taken in a timely and effective manner. And that if there are any further delays and/or errors on RSA's part. Mrs N and Mr N will be entitled to make a further complaint to RSA – and then to us, if they aren't satisfied with RSA's response.

My final decision

For the reasons set out above, I uphold Mrs N and Mr N's complaint.

Royal & Sun Alliance Insurance Limited must:

- Pay Mrs N and Mr N £1,250 in compensation for their trouble and upset;
- Pay Mrs N and Mr N £510 – with interest added as specified above – to reimburse them for the cost of their expert's report; and
- Progress the claim as specified above and in a timely manner.

If Royal & Sun Alliance Insurance Limited considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mrs N and Mr N how much it's taken off. It should also give Mrs N and Mr N 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 Mrs N and Mr N to accept or reject my decision before 21 February 2025.

Neil Marshall
Ombudsman