

The complaint

Mr O's complaint is about the handling of a claim he made on his Royal & Sun Alliance Insurance Limited ('RSA') property owner's insurance policy.

Mr O says RSA treated him unfairly.

What happened

Mr O's tenant made two claims against him; one for disrepair of the property, and another for personal injury which arose out of the disrepair of the property. In the case of the latter, the tenant said the condition of the property had exacerbated a health condition of one of his family members living in it.

Mr O passed the claim to his insurance broker who in turn got in touch with RSA about it. The broker asked for RSA to fund the damages caused to the property and the legal fees incurred in the claim. They asked for RSA to liaise with Mr O's own Solicitors who were instructed to deal with both matters.

RSA agreed to set up a claim and said they'd be in touch about next steps. They also got in touch with Mr O's Solicitors to ask for further information about the damage claimed for and how it had been caused.

What followed were some exchanges between Mr O and his broker and correspondence from the tenant's Solicitor's saying they were pursuing the matter through litigation. RSA then said they wouldn't deal with the damage to property claim as the policy didn't cover damage to Mr O's property. They also said they would direct the personal injury claim to the relevant team for a claim to be set up.

Mr O's broker then got in touch with RSA saying Mr O's Solicitor's had been given two hours to make a liability decision by the tenant's Solicitors. Based on this RSA agreed to offer £1,000 in settlement of the claim against Mr O. RSA say this offer was made in respect of the discomfort and inconvenience claim made by the tenant in respect of the exacerbation of the health condition to his family member.

Following this, RSA withdrew the offer they made and said they were prepared to settle the personal injury claim made against Mr O.

Mr O's complaint is that RSA's offer of £1,000 meant they should have funded the disrepair claim against him and that their failure to follow through on this after making the offer meant he incurred considerable legal costs, which he feels RSA are partly responsible for.

Our investigator considered Mr O's complaint and concluded that it should be upheld in part. He agreed that communications from RSA about the claims against Mr O were confusing and that it was not made clear to him which specific claim the offer of £1,000 was for. The investigator said that RSA should honour the offer of £1,000 and pay that to Mr O's Solicitor if they hadn't already done so.

Mr O doesn't agree so the matter has been passed to me to determine.

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.

Having done so, I uphold Mr O's complaint for broadly the same reasons set out by the investigator. Before I explain why, I wish to acknowledge the volume of submissions made by Mr O in this complaint. Whilst I've read everything he's said, I won't be addressing it all. That's not intended to be disrespectful. Rather it's reflective of the informal nature of the Financial Ombudsman Service. Instead, I'll focus on the crux of Mr O's complaint, namely whether RSA are responsible for the losses he says he's suffered as a result of their handling of his claim.

It's not in dispute that the policy doesn't offer cover for either legal costs or damages associated with disrepair claim nor the cost of repairing damage to Mr O's property. Mr O's complaint is that RSA's conduct led him to believe these costs would be covered by making the offer that they did and that this led to his incurring considerable legal costs, for which they should be liable.

I've considered the communications in this complaint. Having done so, I agree that there's a great deal of confusion in how this claim was dealt with by RSA from the outset. But I don't think this was helped by the involvement of both Mr O's broker and Mr O's Solicitors. I say so because Mr O's broker appeared to have been conducting the claim on his behalf with RSA, whilst his Solicitors were dealing with the developments with the tenant separately. Mr O's broker was reporting to Mr O, who was then in turn reporting to his Solicitors. Looking at the correspondence between all four parties, I'm satisfied that something appears to have been lost in translation on more than one occasion or wasn't necessarily duplicated in call notes. And without full sight of both the broker and the Solicitor's files, I can't be sure where the discrepancies arose and why.

What's clear to me however is that RSA did make clear fairly early on- and certainly before the offer of £1,000 was made to Mr O- that they wouldn't cover the disrepair claim or damage to Mr O's property. So, I think Mr O would or should have understood that to have been the case as and when that was communicated by RSA to his broker. Where matters became less clear was when the offer was made by RSA and what that was for. RSA have said the offer was for the tenant's 'discomfort and inconvenience' but that wasn't a specific claim the tenant was making. The tenant was making two claims- one for the disrepair and another for personal injury. I can see how Mr O might have interpreted the offer of £1,000 for the discomfort and inconvenience expressed by the tenant in respect of the condition of the property as opposed to for the personal injury claimed for by the tenant's family member.

RSA have however agreed to pay the £1,000 now. And I agree that's the right thing to do in the circumstances. But I don't think that their offer of this amount means that they're liable for the legal costs Mr O incurred in the disrepair claim or the cost of the damage to his property. I say so because I've seen nothing to say that Mr O or his Solicitors relied on this offer as confirmation that RSA would pay for the claim or any awards against Mr O. The fact that Mr O didn't settle the claim any sooner isn't in my view something that he's demonstrated RSA should be responsible for. The policy doesn't offer cover for the unfortunate situation he found himself in and I'm satisfied that RSA did make this clear before the offer of £1,000 was made.

I note that Mr O did seem at one point to be under the impression that RSA would cover his claim before they told his broker that this wasn't the case. I can see he emailed his Solicitors

about this citing that he'd been told this by his broker. But I can't see that RSA did make a promise that damages and tenants' legal costs would be covered by them from the outset, nor that this was recorded anywhere by his broker. And even if his broker misunderstood the position, this would have been corrected when RSA communicated that the claim wasn't covered before they made the £1,000 offer.

Overall, I accept that RSA didn't communicate clearly enough with Mr O and that this might have caused some small delays in his underlying claims being progressed, at least to the extent that Mr O's Solicitors might have been waiting for an answer on the request for funding put by his broker to RSA. But this was answered fairly swiftly when RSA offered the £1,000. And nothing in that offer expressed that RSA would cover Mr O's legal costs or any other aspects of the disrepair claim. From the everything I've seen therefore the offer itself didn't have a quantifiable impact of his legal claims, such that they were prejudiced by RSA's actions on a standalone basis. And although Mr O says this led to his legal costs rising, I can't see how this could be. Mr O's Solicitors would in any event have been exploring negotiations with the tenant, whether this was driven by the tenant or not. So I'm not satisfied that asking for RSA's input and receiving an offer of settlement did anything to cause those legal costs to increase. In the circumstances, I have set out what RSA should do to put things right below.

When reaching my conclusions, I understand that this matter has caused Mr O a great deal of distress and that he has ended up paying legal costs that he wanted RSA to cover. But for the reasons I've set out above, I don't think RSA are responsible for these nor that their actions led him to believe that they would be funding his costs and the settlement with his tenant entirely for the disrepair claim.

Putting things right

RSA should pay Mr O's Solicitors £1,000 in respect of the offer they made which can be paid in respect of either his legal costs or to fund any settlements due to his tenant.

My final decision

For the reasons set out above, I uphold Mr O's complaint against Royal & Sun Alliance Insurance Limited and direct them to put things right as I have set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 28 January 2025.

Lale Hussein-Venn
Ombudsman