

The complaint

Ms P and Mr T are complaining about the way Royal & Sun Alliance Insurance Limited (RSA) has handled a subsidence claim they made on their buildings insurance policy.

Mr T has largely acted on behalf of Ms P and Mr T throughout the claim and complaint.

RSA has used a loss adjustor to act on its behalf in the handling of the claim. But for ease of reference I shall refer to anything the loss adjustor did or said as being done by RSA.

What happened

The facts of this complaint are well known to all parties. Furthermore both parties have sent clear descriptions of what's happened and neither party dispute what's happened. So I'm not going to set out in detail what's happened in this complaint.

In summary, Mr T first contacted RSA in August 2022 as he'd noticed cracks in the walls on his conservatory which he thought might be down to subsidence. RSA arranged for the property to be inspected and in September 2022 said it would cover the claim. For around the next year a period of monitoring ensued with the final monitoring occurring in August 2023.

Mr T is unhappy with how the claim progressed after August 2023. Examples of this are:

- He frequently asked for updates, but didn't receive them.
- Several appointments were missed.
- Work carried out was done to a poor standard.
- He was unhappy with the attitude of some of the contractors.

RSA later inspected the property again but said that it shouldn't have said the claim was covered. It said the conservatory was actually suffering damage because the conservatory was built on newly laid soil and has suffered damage due to the soil settling in – i.e. it believed it was down to poor workmanship. And it said this isn't covered under the terms of the insurance policy.

However, despite this, RSA said it would cover Ms P and Mr T's claim and said it would pay them an ex-gratia payment of around £48,000 excluding VAT. It said it would also pay the VAT upon receipt of an invoice showing the works had been completed. It also said it would pay them £700 in compensation. Mr T didn't think this was sufficient compensation, so he referred his complaint to this Service.

Our Investigator didn't uphold this complaint. She said it was clear RSA had caused Ms P and Mr T a significant amount of avoidable distress. And she said it should have clearly set out from the start that the claim wasn't covered under the terms of the insurance policy. But she said, this Service wouldn't have required RSA to pay the claim. So should thought agreeing to pay around £48,000 and pay £700 in compensation was significantly more than she would have required it to pay. So she didn't think it needed to do anything further to put things right.

Mr T didn't agree with the Investigator and raised the following:

- He said the agreement to pay the claim was an ex-gratia payment, so he didn't think it should be taken into consideration when assessing compensation.
- The impact of all the delays, errors, poor decision making and the effort of resolving this matter has left him suicidal.
- Mr T has suffered from a cancer diagnosis and undergone recent treatment, but he said no consideration for this has been given for this and the constant uncertainty has not only been detrimental to his recovery but has impacted his daily life.
- They were promised the matter would be resolved by November 2024, but the matter still wasn't resolved.
- Their home is no longer considered their sanctuary and a place they once enjoyed but a constant reminder of the stress contractors and personnel have put us through.
- Their garden was unnecessarily ripped up and vegetation removed. They said they'd lost their conservatory as they had no choice given RSA had added an endorsement to the policy.
- They said they cannot fully express the upset, distress and anxiety this whole situation has caused, and said it was all unnecessary due to poor decision making at the outset.

Ms P and Mr T asked for an ombudsman to review their 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.

I've decided to not uphold this complaint and I'll explain why.

I should first set out that I acknowledge I've summarised Ms P and Mr T's complaint in a lot less detail than they've presented it. Mr T has raised a number of reasons about why he's unhappy with the way RSA has handled this matter. I've not commented on each and every point he's raised. Instead I've focussed on what I consider to be the key points I need to think about. I don't mean any discourtesy about this, but it simply reflects the informal nature of this Service. I assure Ms P, Mr T and RSA, however, that I have read and considered everything they've provided.

Secondly, I also need set out that, in this decision, I'm only considering RSA's handling of the claim up to when it issued its final response letter in April 2024. Ms P and Mr T have raised various other complaints, but these aren't being considered under this complaint reference.

There's absolutely no dispute that RSA's handling of this claim has been poor. This has had a profound impact on Ms P and particularly Mr T. And I naturally fully sympathise with the situation they've found themselves in. I've been particularly sorry to hear about the health conditions Mr T has experienced and the impact this matter has had on his mental health. And I'm satisfied that, while RSA hasn't caused all of this, it's most likely that its actions have significantly impacted Mr T.

However, my role in this complaint is to consider whether RSA has taken fair steps to put things right. As I said, all parties agree RSA should have handled this claim better. I've seen evidence of the following (but not an exhaustive list):

- RSA should have recognised from the start that the damage wasn't down to subsidence and all parties accept that. Had it done so, it would have avoided a lot of the distress that subsequently arose. That said, had it done so, Ms P and Mr T would have been left with

the cost of rectifying the damage themselves, or would have had to look to recover it from the company who installed the conservatory in the first instance. So they would have suffered an entirely separate form of distress and inconvenience. But this doesn't detract from the significant upset that subsequently ensued.

- I'm satisfied there's evidence that works RSA did authorise were done to a poor standard. I can see Mr T spent a lot of time discussing this to try and get this put right.
- Mr T had challenges getting updates at times.
- Ms P and Mr T have unnecessarily had parts of their garden ripped out.
- RSA repeatedly told Ms P and Mr T that repairs would be carried out, but then experienced significant delays in them being completed.

Ultimately, had RSA assessed the claim as it should have done from the start, the above wouldn't have happened. But I also am satisfied that RSA has shown the conservatory hasn't been damaged by subsidence and seems to be down to the way it was manufactured. The terms of the policy don't cover this. So, had RSA done what it should have done, Ms P and Mr T would have been left to rectify the damage themselves. However, RSA has agreed to pay the claim.

I recognise Mr T has said RSA has only agreed to pay the claim as an ex-gratia payment because of the additional damage it caused and its general handling. But, the fact remains, RSA wasn't liable to pay anything under the policy terms. And I wouldn't have required it to pay this amount, had it done so. So I do fairly have to take this into consideration when assessing whether I think RSA has fairly compensated Ms P and Mr T.

Mr T has highlighted that RSA offered to pay £1,170.60 as a cash settlement in May 2023. So he says the damage before RSA's contractors became involved was minimal. But this amount didn't include the work that was required to rectify the foundations to the conservatory. And I'm satisfied this would have been necessary to effect a lasting and effective repair. So I cannot say £1,170.60 was a fair reflection of the work that was required to put the conservatory right. While I don't dispute the repair costs in 2022 may not have been as high as £48,000, I think they still would have been significant.

In addition to the ex-gratia claim settlement, RSA also paid £700 in compensation. On its own, I wouldn't say £700 is fair compensation for all the distress and inconvenience RSA's actions have caused – especially given the health challenges Mr T was suffering from, which RSA's actions inevitably have exasperated, and the impact it's had on his mental health. But, they have also received £48,000 they weren't entitled to under the policy terms.

So, while I do fully appreciate the profound impact this matter has had on Ms P and Mr T, I'm satisfied RSA has taken fair steps to put things right. And it's agreed to pay significantly more than I would have required it to pay. So I don't think it needs to do anything further.

My final decision

For the reasons I've set out above, it's my final decision that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms P and Mr T to accept or reject my decision before 7 April 2025.

Guy Mitchell
Ombudsman