

## **The complaint**

Mrs T is unhappy that Royal & Sun Alliance Insurance Limited (“RSA”) declined her claim for damage caused by an escape of water.

Mrs T had buildings insurance for her home which was underwritten by RSA. The property was insured on an unoccupied basis. Mr T made the claim and complaint on behalf of Mrs T so, for ease of reading, I’ll refer to Mr T throughout.

## **What happened**

The background to this complaint is well-known to both parties, so I’ve summarised what I think are the key events.

In January 2024, Mr T claimed under the policy for damage caused by an escape of water from a burst pipe. He raised a complaint with RSA, which issued a final response dated 22 May 2024. The complaint was resolved following referral to this service and the merits of that complaint won’t be considered further here.

Mr T raised another complaint with RSA. He said RSA had reopened the claim but, after a significant delay, it declined again and said that Mr T hadn’t demonstrated compliance with the unoccupancy clause. Mr T provided energy bills to show that gas had been used to heat the property. He was unhappy because the property had become damaged further due to the delays in assessing the claim.

RSA issued a final response dated 18 November 2024. It remained of the view that Mr T hadn’t demonstrated that the property had been heated to the required temperature during the period of unoccupancy. However, it acknowledged that it had caused avoidable delays and paid £500 compensation. RSA told Mr T that it hadn’t given him any expectation that the claim would be accepted, and it was the policyholder’s responsibility to mitigate further damage. Unhappy with RSA’s response, Mr T brought the complaint to us.

Our investigator didn’t think RSA had handled Mr T’s claim fairly. While she thought the compensation was fair and reasonable, she said that RSA hadn’t provided persuasive evidence that a policy exclusion applied. Our investigator thought RSA should reconsider the claim under the remaining terms of the policy without relying on the unoccupancy endorsement.

RSA didn’t agree. It provided evidence of average gas usage to heat homes to the required 15 degrees. RSA also provided its calculations to show that the gas usage had been insufficient to heat the property. Our investigator responded to RSA to say that even if the usage was low, maintaining the home at 15 degrees would’ve been unlikely to prevent the pipe burst given that it was in the loft. RSA didn’t agree and it asked for an ombudsman 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.

Having done so, I've decided to uphold this complaint.

The Financial Conduct Authority's rules (ICOBS 8.1.1) say that insurers must handle claims promptly and fairly. And that they mustn't turn down claims unreasonably. I've thought about how RSA handled Mr T's claim and whether it was in line with these rules. In doing so, I've also taken into consideration the evidence and what's likely to have happened where that evidence is inconclusive.

There's no dispute about the damage and what caused it. The complaint here is that Mr T thinks RSA declined the claim unfairly, and that its delays allowed further damage to develop in the property.

The policy sets out the detail of the contract between Mrs T and RSA and I note that it provides cover for:

*A6. Escape of water or oil escaping from a fixed heating system or domestic water installation, washing machines or dishwashers.*

The policy doesn't cover:

*6. Damage caused while the Home is Unoccupied.*

*Damage to the installation or appliance itself unless freezing causes the damage.*

However, the policy schedule shows that this exclusion is deleted and of no effect:

*During periods when Your Home is Unoccupied:*

*1. Exclusions contained within Section 1 - Buildings A4, A6 [...] relating to when the Home is Unoccupied are deleted and of no effect.*

*4. Between 1st November to the 31st March, inclusive, We will not pay for loss or damage arising from escape of water or oil unless central heating is installed and is maintained to a minimum temperature of 58 degrees Fahrenheit (15 degrees Centigrade).*

*5. Your property must be visited at least once a week by You or a competent person acting on Your behalf and thoroughly inspected externally and internally with any defaults rectified as soon as reasonably possible.*

This tells me that Mrs T's policy provided cover for damage caused by an escape of water providing the heating was maintained at 15 degrees while the home was unoccupied.

## **Claim**

RSA declined the claim because it didn't think Mr T had demonstrated compliance with the requirement to maintain the heating at 15 degrees. Mrs T's gas bills showed that the use over the relevant period was low, and RSA didn't think it would've been sufficient to heat the home during the freezing temperatures outside. Mr T disagreed because the average temperatures RSA used to assess expected gas usage was based on an occupied property.

Having considered the evidence, I'm persuaded by RSA's submission. The gas usage does seem too low to maintain a home at a steady 15 degrees, or higher as Mr T reported. I'm aware that many other factors play a part, for example, the effectiveness of insulation, type of heating, boiler age, and general energy efficiency of the home. But, having seen the

photos in the damage assessment report, I think it's unlikely the home was so energy efficient that the gas usage would be as low as it was.

I haven't gone into the details of the calculations each party has provided because I don't think it would be beneficial. In summary, I think it's more likely than not that Mrs T's home was not maintained at 15 degrees based on the gas usage over the period. Therefore, I think RSA declined the claim in line with the policy and the unoccupancy endorsement for a technical breach of the condition.

### **Fair and reasonable**

Turning back to the rules, RSA should handle claims fairly and not turn down a claim unreasonably. So I've gone on to think about whether it was fair in the overall circumstances for RSA to decline the claim.

RSA could reasonably decline the claim for non-compliance with the unoccupancy condition if the circumstances of the claim were connected to the breach. When asked whether compliance could have made a difference, RSA said:

*The burst was in a cold-water feed into a header tank. Using the heating doesn't guarantee any regular flow of water through the pipe that feeds a header tank (noting that regular movement of water is an aid to reduce freezing risk; static water freezes quicker than water in motion).*

*However, heat rises and space heating a dwelling home does still create some heat exchange with the attic even if the actual heating output via radiators is not in the attic itself.*

RSA's view is that because heating the home as required could've reduced the risk of freezing, non-compliance with the condition excludes its liability under the policy.

While I understand that RSA is not commenting on the degree of probability or direct causation, I don't think it's enough to say that the risk could've been reduced. I must consider whether Mr T has increased the risk.

RSA has commented that the property does not appear to be well-insulated, and it makes specific reference to the external tiled walls. Having looked at the assessment report, I understand why RSA has reached this conclusion. When RSA made these comments, it was in relation to the likelihood that the property was not heated consistently. However, if RSA considered the property walls were poorly insulated in the lower floors, I can't reasonably conclude that enough heat would've been circulated to warm the loft space such that sub-zero temperatures would've been prevented from freezing the water in the pipes.

RSA agreed, as quoted above, that standing water was more at risk of freezing than moving water, and that having the heating on would not have guaranteed movement. Further, heating the property would not have guaranteed that the pipes in the loft wouldn't have frozen in such low external temperatures. Given that RSA offered the policy in the knowledge that the property was, and would remain, unoccupied, a condition such as requiring Mr T to drain the water system might have been a more effective means of reducing risk. So, I think that, on balance, RSA hasn't shown that the heating could've reduced the risk, and I haven't seen anything to indicate that Mr T increased the risk.

In summary, RSA was aware the property was unoccupied, the policy was offered on that basis with the added condition that the property should be heated to 15 degrees consistently throughout the winter period. Given that RSA has confirmed heating would not have

guaranteed to reduce the risk of freezing in the loft, I think it's unfair to rely on the condition to exclude liability in the overall circumstances.

### **Compensation**

RSA paid £500 for the avoidable delays and failure to manage expectations. I don't doubt that Mr T has experienced inconvenience and frustration throughout this claim. However, I can only require RSA to compensate an eligible complainant – in this case Mrs T, the policyholder – for any distress and inconvenience caused directly to them as a result of RSA's handling of the claim. As Mr T is not the policyholder, I'm not requiring RSA to make any further payment.

### **Putting things right**

For the reasons I've given, I'm satisfied that the recommendations made by our investigator are fair and reasonable in the circumstances. For completeness, I've set out, below, the actions RSA must take.

### **My final decision**

My final decision is that I uphold Mrs T's complaint and Royal & Sun Alliance Insurance Limited must:

- assess the claim in line with the remaining terms and conditions of the policy without relying on the central heating condition of the unoccupancy endorsement.

Should the claim be accepted, Royal & Sun Alliance Insurance Limited must:

- take into account the additional damage caused to the property due to delays following the initial escape of water.
- reimburse the cost of any repairs related to the escape of water damage, including 8% simple interest from the date the costs were paid.

If Royal & Sun Alliance Insurance Limited considers that tax should be deducted from the interest element of the award, it should provide Mrs T with a certificate showing how much it has have taken off so she can reclaim that amount, if she is eligible to do so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs T to accept or reject my decision before 10 September 2025.

Debra Vaughan  
**Ombudsman**