

The complaint

Mr F and Ms M complain Red Sands Insurance Company (Europe) Limited has unfairly declined a claim they made on a buildings insurance policy.

What happened

Mr F and Ms M live in a property which has a rock face behind it. In 2024 part of the rock slipped and came to rest against their property. The rock has covered a path to the rear of the property and is preventing the rear kitchen door from being used. The weight of the rock against the property has caused cracking to some of the walls and they have needed to be braced internally to help support the load.

Mr F and Ms M made a claim to Red Sands under their buildings insurance policy. Red Sands instructed a loss adjuster to visit the property and provide a report on their findings. That report confirmed what Mr F and Ms M had said, it also said that due to the risk of further rock falls, it wasn't safe for the property to be lived in.

Red Sands considered the report against the terms and conditions of the policy. It explained to Mr F and Ms M that it didn't think the policy covered the situation that had happened. It explained that while the policy did cover downward movement of the land this had to be beneath the property or down a slope. Mr F and Ms M disagreed with Red Sands' decision and complained; however, it didn't change its position.

An Investigator considered the complaint and explained to Red Sands that she believed the claim was one that should be covered by the policy. She said the policy term wasn't specific as to what land should move down a slope. Here the rock had arguably moved down a slope and caused damage to the property. She explained it was common for landslip to be covered in insurance policies where damage has been caused by movement of sloping ground, so she thought it was reasonable for this claim to also be covered. The Investigator also said that any damage to the path behind the property would be covered as that policy term requires downward movement of the land where the insured house is also damaged. Which is what had happened here.

The Investigator said to put things right Red Sands should consider the claim further. She said it would need to ensure a lasting and effective repair was made to the property, although she acknowledged Red Sands wouldn't be responsible for the overall stabilisation of the rock face.

As Mr F and Ms M had moved out of the property the Investigator thought Red Sands should cover the costs of the alternative accommodation they had used and pay interest on those at 8% simple per year. The Investigator recognised it was likely that to undertake repairs at the property and, the necessary arrangements that would need to take place in order to undertake those repairs safely, the property would be rendered uninhabitable at that time.

Given the Investigator found that Red Sands had incorrectly declined the claim she recommended it pay Mr F and Ms M compensation of £500 for the distress and inconvenience they had been caused. She also awarded a further £100 to reflect the fact

there had been delays in a loss adjustor being appointed to inspect the property.

Red Sands responded to the Investigator saying that it accepted her findings on the policy wording and would review the claim further. However, it said before it would be able to undertake any further inspections or repairs to the property, the area would need to be made safe. It said that Mr F and Ms M would need to arrange for the rock face to be stabilised and the fallen rock removed before it would do anything further.

It said it would pay compensation but only between the dates of when the claim was first logged and when it declined the claim. It did not comment on whether it agreed with the recommended award of compensation, but it asked for an Ombudsman to review the complaint.

Mr F and Ms M indicated they agreed with the Investigator's opinion however they were concerned about how long it would take for matters to progress. They indicated they needed to move back to the property as the six months lease, they had taken on a rental property was coming to an end. Mr F and Ms M expressed the impact the matter was having on them, especially Mr F who was disabled, requiring a carer and who had recently been hospitalised. Mr F and Ms M wanted assurances that any costs they may incur in making the property safe to inhabit would be covered by Red Sands. And any alternative accommodation and additional living expenses would be covered as well.

The case has been passed to me to decide.

My provisional findings

I issued my provisional findings on this complaint on 9 May 2025. I said I intended to uphold the complaint in part, for the following reasons:

"As Red Sands has agreed with the Investigator's opinion that Mr F and Ms M have a valid claim under the policy. I don't need to consider this matter further. Had it not done so, my decision would have been the same as the Investigator's for the same reasons, the policy wording is not sufficiently clear to conclude Mr F and Ms M's claim is not covered.

While Red Sands has agreed to review the claim in line with the terms and conditions of the policy it has said it is not responsible for stabilising the rock face and that Mr F and Ms M will need to arrange for the fallen rock to be cleared and the area made safe before it will undertake any further work. Red Sands has also said that it will only pay alternative accommodation for the period between the claim being logged and the date it declined it. I must therefore consider whether I think it is acting fairly here.

Stabilisation of the rock face and debris removal.

Having considered the terms of the policy, it specifically states that removal of debris is covered by the policy. And generally, this is something insurers do undertake as part of an insurance claims process. So, I don't think it's reasonable for Red Sands to say this is Mr F and Ms M's responsibility or that it won't undertake any further work until they do so.

However, I acknowledge the matter is more complex here as it is unknown how stable the remaining rock face is and whether it is at risk of any further falls, so it may need to be stabilised before the debris can be removed. However, it is also possible that the alternative position maybe true, that works to stabilise the remaining rock face may not be able to be undertaken until the debris is removed.

While Red Sands is correct that more broadly, it is not responsible for stabilising the rock

face as a whole, it is responsible for removing the debris from site. It therefore needs to consider how it can do that safely and how any further required inspections and repairs to the property can also take place safely.

If Red Sands needs to take other steps in order to establish how it can complete these tasks safely then it will need to undertake those investigations. While not strictly covered by the policy, on a fair and reasonable basis, I think Red Sands should cover the cost of any required investigations as more likely than not these additional steps will need to be completed for it to be able to fulfil its obligations under the policy.

Mr F and Ms M have already obtained a quote for a slope stability assessment, Red Sands may wish to consider the content of this. Given the time that has already passed, if Mr F and Ms M have already paid out for some investigations or works to be done, Red Sands will need to consider if it is appropriate to reimburse them based on what I have said above regarding the fair and reasonable position in terms of additional investigations.

To be clear to Mr F and Ms M, I do not intend to direct that Red Sands is responsible for covering all costs required to stabilise the rock face, clear the debris and repairs to the property. Nor will I be making a direction that Mr F and Ms M can use any contractor they wish to undertake any works required. I'm only intending to direct that Red Sands covers costs that would normally be covered by the policy terms and conditions and those, as set out above, which I think it would be fair and reasonable for it to do so.

I think it is more likely than not that Mr F and Ms M will still be responsible for paying some, if not all the costs associated with stabilising the rock face – however this is yet to be determined. If later, Mr F and Ms M are unhappy with how the claim is progressing or any costs they are asked to cover, they would be entitled to make a new complaint.

Alternative accommodation

Red Sands has said it will only cover the cost of alternative accommodation between the period of when the claim was reported to the date it was declined. I've considered the policy terms and conditions, and they say the following:

Under the heading "Item: Alternative accommodation....

We will pay for:

The cost of renting a similar property or providing temporary kitchen and bathrooms to allow you to remain at Your home and other associated costs for the time that You are unable to live in Your home or until we settle the claim in full, whichever is the sooner, following any insured damaged to Your house that We agree to pay for".

It has since been established that there is damage to the property and Mr F and Ms M have made a valid claim under the policy. I've also considered the comments made in the initial inspection report that Red Sands arranged which says "Given the risk of further rock face collapse, it is strongly recommended that occupants remain out of the property for health and safety reasons...". The same report also confirms that walls have needed to be braced internally to assist with supporting the load the slipped rock is placing on them and the walls are showing stress fractures. Ms M has also said they are unable to use the rear kitchen door due to it being blocked by the slipped rock. I therefore think its reasonable to say that Mr F and Ms M have been unable to live in the property.

I've also considered the Insurance Product Information Document ("IPID") which confirms under the "What is Insured?" section that the policy provides "Unlimited alternative

accommodation" cover.

I'm not satisfied that Red Sands' current proposal regarding alternative accommodation is fair. It is not in line with the policy terms and conditions as it seeks to limit what they are entitled to. Based on the wording of the policy terms Mr F and Ms M would be entitled to this cover from the point they needed to move out of the property to the point they are able to move back in again/the claim is settled in full. Red Sands will therefore need to assess any costs Mr F and Ms M have incurred to date and reimburse them adding interest at 8% simple per year from the date they made any payments to the date Red Sands pays them.

Delays and Customer Service

Mr F can be considered a vulnerable consumer due to his disabilities and the difficulties he has. With Ms M being his carer. I think a claim of this nature would have undoubtedly caused a significant degree of inconvenience and disruption. However, I think Red Sands' incorrect decline of the claim has added to the distress and inconvenience they have suffered. Mr F and Ms M have also had to source alternative accommodation themselves without any assistance, which will have added further to their distress and inconvenience.

While a claim decision was initially given quite quickly there was still a delay in appointing the loss adjuster that was avoidable. Given the severity of the situation Mr F and Ms M were facing, any delay would have had an impact on them.

Mr F and Ms M have mentioned they were unable to continue looking after another family member who was unwell when the rock slip happened. While I understand this would have been upsetting, the policy generally only usually covers those that normally live at the property. Red Sands wouldn't have been responsible for finding an alternative property that was suitable for this family member to also be housed and the inconvenience itself resulted from the insured event rather from anything Red Sands did incorrectly at that time.

Having reviewed everything, I think Red Sands' actions would have had an impact on Mr F and Ms M and I intend to direct it pay them a total of £600 compensation to reflect this. I think this reflects the fact its mistake has caused them considerable distress, upset and worry.

Other matters

Mr F and Ms M have mentioned the policy has not been renewed for another year. If they are unhappy about this, they would be entitled to make a complaint to the relevant business. If they are unhappy with any resulting response they would be entitled to bring a new complaint to this Service.

Red Sands has noted that there was ongoing building work at the property and has said that it will need to consider if this has any impact on policy coverage. I can confirm I have not considered any aspect of this in this decision, nor do I intend to do so. If Red Sands wish to investigate this further, they will need to explain their findings to Mr F and Ms M. If Mr F and Ms M are then unhappy with anything Red Sands decides about this issue they would be entitled to make a new complaint.

Award limit

As both parties are aware, where we uphold a complaint, an ombudsman can award fair compensation to be paid by the respondent business up to the relevant award limit. That limit is determined by the date of the act or omission by the business as well as the date the complaint is referred to our service. In this case, the limit is £430,000. If we think fair

compensation is more than our award limit, we can recommend that the business pays the balance, but the business wouldn't be obliged to do this, even if the consumer accepted our decision.

However, the following are excluded from the award limit:

- *any interest on the amount payable under a money award; and*
- *any costs awarded (and any interest awarded on those costs).*

For the avoidance of doubt, the reference to "costs" here concerns the costs of a complainant bringing a complaint to the Ombudsman Service.

Here the total amount is yet to be decided as it's not yet been calculated, so I'm not able to award a specific total amount (or recommend a specific amount beyond that). If my final decision remains the same as my provisional decision, then I'll be directing Red Sands to consider the claim in line with the remaining terms, conditions, limits and excesses.

I should make it clear that I consider this to be a direction and not a money award. However, the effect of this direction is that the policy will be subject to the £430,000 limit on a money award in relation to this claim. If, having considered this claim, Red Sands decides that it is appropriate to settle aspects of it, the £430,000 limit will apply to the total amount payable. Red Sands would need to pay Mr F and Ms M, if they accepted my decision and assuming it goes on to accept the claim, up to that maximum amount.

If any settlement exceeded that amount, then I'd recommend Red Sands pay Mr F and Ms M the balance up to the applicable policy limits for each section of cover. But that recommendation wouldn't be part of my determination or award. Red Sands doesn't have to do what I recommend.

And it's unlikely Mr F and Ms M would be able to accept my decision and go to court to ask for the remaining balance. So, if my final decision is the same as my provisional decision, Mr F and Ms M may want to get legal advice before deciding whether to accept the decision.

But as this is a provisional decision, the outcome, or any of the points above could change based on the responses I receive from both parties.

My provisional decision

Intended Decision and award: I intend to uphold the complaint. I think that fair compensation should be calculated as below. My decision is that Red Sands Insurance Company (Europe) Limited should pay Mr F and Ms M any amount produced by that calculation – up to a maximum of £430,000.

Intended Recommendation: If the amount produced by the calculation of fair compensation is more than £430,000, I intend to recommend that Red Sands Insurance Company (Europe) Limited pays Mr F and Ms M the balance.

- A. Consider the claim in line with the terms, conditions, limits and excesses of the policy.*
- B. It must remove debris from the site and undertake any steps or investigations necessary to determine how this can be done safely.*
- C. Reimburse Mr F and Ms M the cost of alternative accommodation they have paid to date.*
- D. Make a total payment of £600 compensation to Mr F and Ms M.*

Part 2

Where it goes on to make payments under the claim Red Sands Insurance Company (Europe) Limited should:

- E. Consider the buildings part of the claim in line with the remaining terms, conditions, limits and excesses, in order to calculate this part of the claim settlement.*
- F. Consider any contents part of claim in the line with the remaining terms, conditions, limits and excesses, in order to calculate this part of the claim settlement.*
- G. Consider claims under any other sections of the policy line with the remaining terms, conditions, limits and excesses, in order to calculate this part of the claim settlement.*
- H. Pay Mr F and Ms M fair compensation, up to a maximum of £430,000, to be calculated using the following formula: $C + E + F + G$*

Part 3

- I. Pay Mr F and Ms M 8% simple interest per year on B, from the date they made any payments to the date Red Sands Insurance Company (Europe) Limited makes payment to them.*
- J. Red Sands Insurance Company (Europe) Limited must pay the compensation awarded in B within 28 days of the date on which we tell it Mr F and Ms M accepts my final decision. If it pays later than this, it must also pay interest on the compensation from the deadline date for settlement to the date of payment at 8% a year simple.*
- K. Income tax: if Red Sands Insurance Company (Europe) Limited go on to make a payment of interest and consider it's required by HM Revenue & Customs to deduct income tax from any interest paid, it should tell Mr F and Ms M how much it's taken off. If requested, it should also provide them a certificate showing the amount deducted, so they can reclaim it from HM Revenue & Customs if appropriate".*

Responses to my provisional decision

Red Sands responded saying it agrees with the provisional decision.

Mr F and Ms M said they accepted the provisional decision, but they were worried they would not be able to continue with contractors of their choosing. They said they were concerned about Red Sands' ability to move forward with things quickly, given the length of time that has already passed and the further impact this could have on them and their property.

They provided a copy of the invoice for the slope stability assessment and the report for consideration.

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 see no reason to depart from the findings I made in my provisional decision or the outcome. I thank Mr F and Ms M for providing a copy of the slope stability

report which details the investigations undertaken and recommendations of how the slope can be stabilised. I've looked through it however, this does not impact on the findings I need to make here.

My decision has considered whether Reds Sands was fair to decline the claim, I've decided it wasn't and that it should reconsider the matter. It isn't for me to decide how Reds Sands should go about meeting its liability under the policy, it needs to consider the findings of the report itself and act accordingly.

As I set out in my provisional findings, Mr F and Ms M would likely be responsible for some, if not all, of the costs associated with the work to stabilise the rock face. However, given Reds Sands will also likely have some liability here due to the policy cover for removal of debris from the site, both parties will need to work together to ensure this is completed in a timely manner. I won't be making a finding on what contractor should be used as again, if Red Sands is contributing to some of the costs, it may have a preferred contractor or it may decide to cash settle any proportion of its liability in this respect.

I recognise this matter has been very stressful and inconvenient for Mr F and Ms M and that this is likely to continue for some time yet. However, I must concentrate on Reds Sands' actions to date. I remain satisfied for the reasons set out in my provisional findings that £600 compensation fairly reflects the considerable stress, upset and worry they have been caused.

For the reasons above, and those set out in my provisional findings, I uphold Mr F and Ms M's complaint against Red Sands.

I set out in my provisional decision the impact the award limit may have on Mr F and Ms M's claim. I don't intend to repeat it in detail here other than to reiterate that it's unlikely Mr F and Ms M would be able to accept my decision and go to court to ask for any remaining balance should fair compensation exceed the award limit of £430,000. So, Mr F and Ms M may want to get legal advice before deciding whether to accept this decision.

My final decision

Final Decision and award: I uphold the complaint. I think that fair compensation should be calculated as below. My decision is that Red Sands Insurance Company (Europe) Limited should pay Mr F and Ms M any amount produced by that calculation – up to a maximum of £430,000.

Recommendation: If the amount produced by the calculation of fair compensation is more than £430,000, I recommend that Red Sands Insurance Company (Europe) Limited pays Mr F and Ms M the balance.

- A. Consider the claim in line with the terms, conditions, limits and excesses of the policy.
- B. It must remove debris from the site and undertake any steps or investigations necessary to determine how this can be done safely.
- C. Reimburse Mr F and Ms M the cost of alternative accommodation they have paid to date.
- D. Make a total payment of £600 compensation to Mr F and Ms M.

Part 2

Where it goes on to make payments under the claim Red Sands Insurance Company

(Europe) Limited should:

- E. Consider the buildings part of the claim in line with the remaining terms, conditions, limits and excesses, in order to calculate this part of the claim settlement.
- F. Consider any contents part of claim in the line with the remaining terms, conditions, limits and excesses, in order to calculate this part of the claim settlement.
- G. Consider claims under any other sections of the policy line with the remaining terms, conditions, limits and excesses, in order to calculate this part of the claim settlement.
- H. Pay Mr F and Ms M fair compensation, up to a maximum of £430,000, to be calculated using the following formula: $C + E + F + G$

Part 3

- I. Pay Mr F and Ms M 8% simple interest per year on B, from the date they made any payments to the date Red Sands Insurance Company (Europe) Limited makes payment to them.
- J. Red Sands Insurance Company (Europe) Limited must pay the compensation awarded in B within 28 days of the date on which we tell it Mr F and Ms M accepts my final decision. If it pays later than this, it must also pay interest on the compensation from the deadline date for settlement to the date of payment at 8% a year simple.
- K. Income tax: if Red Sands Insurance Company (Europe) Limited go on to make a payment of interest and consider it's required by HM Revenue & Customs to deduct income tax from any interest paid, it should tell Mr F and Ms M how much it's taken off. If requested, it should also provide them a certificate showing the amount deducted, so they can reclaim it from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F and Ms M to accept or reject my decision before 7 July 2025.

Alison Gore
Ombudsman