

## **The complaint**

Mrs M has complained that her insurer Royal & Sun Alliance Limited (RSA) incorrectly told her it would recover claim costs from a third party when she made a claim under her home and buildings insurance policy.

## **What happened**

Mrs M bought a home and buildings insurance policy through a broker with RSA in January 2023.

In the same month Mrs M made a claim for damage caused to a garden wall and her garden from a neighbour's fallen tree. RSA accepted and settled Mrs M's claim.

At renewal Mrs M was unhappy with the difference in premium price the broker offered for insurance – and she was unhappy at the impact the claim had on her No Claims Bonus (NCB).

Mrs M complained that the broker and RSA had advised her to claim against her policy rather than claim directly against her neighbour for the damage. She said she was advised that RSA would recover the costs of the claim including the excess from her neighbour's insurer. Mrs M said she complained to the broker, who passed her complaint to RSA.

In March 2024 RSA replied to Mrs M. RSA said it told Mrs M at the outset of her claim that it would look to recover costs from the neighbour's insurer, but that recovery wasn't guaranteed. Once RSA had settled Mrs M's claim, it passed it to its recovery team to pursue the neighbour's insurer for recovery. But on legal advice, recovery was abandoned.

RSA said as Mrs M said she also spoke to the broker and RSA's legal advisors about the issue, it passed her concerns to the broker. And although there was no evidence of being misadvised about the recovery from RSA's legal advisors, for any confusion that might have been caused, it paid Mrs M £100 compensation.

In relation to the impact on Mrs M's renewal premium and NCB, RSA said it passed this complaint to her broker as they administer the policy.

Mrs M remained unhappy and asked us to look at her complaint.

Our Investigator didn't recommend the complaint should be upheld. He didn't find RSA had acted unreasonably. Its system notes showed it told Mrs M there was no guarantee of recovery of the costs of the claim and excess.

Mrs M didn't agree. In summary she says she has been badly advised by the broker, RSA and their legal advisors. She says the broker said it had passed her complaint to RSA. The legal advisors were instructed by RSA and represented them, not her.

She's unhappy that having given RSA all of the information it asked for to pursue the claim, it decided not to. Mrs M said she'd received no rationale behind the decision not to pursue recovery and the Investigator's view was the first time she'd been made aware.

In response, I asked the Investigator to send Mrs M a copy of a letter addressed to her dated 22 September 2023 from RSA's legal advisors. This letter set out the decision to abandon recovery and the reasons why. I wanted to be sure Mrs M had received this letter.

Mrs M confirmed she is aware of this letter. But she disagrees with the decision.

So the case has been passed to me 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.

Mrs M bought her policy through a broker and they administer the policy on behalf of RSA. RSA is the insurer of the contract. I cannot consider any complaint about the broker and administrator of the policy here. If Mrs M has or wishes to raise a separate complaint against them, once she has received a final response from them, she can ask us to look at her concerns separately - subject to being within the timeframe for us to do so.

My decision looks at whether RSA acted reasonably in its capacity as the insurer for Mrs M's policy when she made a claim.

I appreciate that Mrs M says she was advised that full recovery would be made if she claimed against her policy with RSA. From RSA's notes, I've seen entries following calls with Mrs M on 7 and 8 February 2023 which record that it said it would look to recover the claim costs (from the neighbour's insurer) but there was no guarantee of recovery. So I'm satisfied from the evidence available to me that RSA didn't misadvise Mrs M.

RSA met Mrs M's claim. It then passed the claim to legal advisors to consider pursuing the neighbour's insurer for recovery of the claim costs. On 22 September 2023 RSA's legal advisors set out its decision to Mrs M not to pursue the neighbour's insurers. And I can see from this letter that they set out their reasons why in detail.

I understand Mrs M doesn't agree with their reasons, but that doesn't mean that RSA didn't properly consider recovering such costs. I don't find RSA acted unreasonably in relying on the legal advice it received in deciding to abandon recovery of the claim costs.

Mrs M's policy has a term I've seen in most – if not all – motor and home insurance policies. This term says;

*"We have the right, if we choose, in your name but at our expense to:*

- take over the defence or settlement of any claim;*
- start legal action to get compensation from anyone else;*
- start legal action to get back from anyone else any payments that have already been made."*

This means RSA might make a decision as to how to settle a claim which Mrs M may not agree with, but RSA is entitled to make that decision. We don't disagree with this term in principle, provided an insurer can show it treated a customer fairly when applying it.

RSA couldn't find evidence of any misinformation given to Mrs M from its legal advisors. But it decided to pay Mrs M £100 compensation for any confusion that may have been caused.

From what I've seen, I think RSA dealt with Mrs M's claim reasonably and in line with the policy. So this means I'm not asking it to do any more.

### **My final decision**

I'm sorry to disappoint Mrs M. But for the reasons I've given above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 25 October 2024.

Geraldine Newbold

**Ombudsman**