

## **The complaint**

Mr M is complaining that Royal & Sun Alliance Insurance Limited ('RSA') has declined a claim he made on his commercial property insurance policy.

Mr M has been represented in the handling of the claim and complaint. But for ease of reference I shall refer to anything his representative has said as being said by Mr M.

## **What happened**

In July 2023 Mr M contacted RSA to claim for damage to a property he rented out. He said it had been damaged by the tenants installing a cannabis farm in the property. RSA investigated the claim, but ultimately declined it because it said he'd breached a policy condition requiring him to inspect the property every three months and to get references for the tenants.

Mr M thought this was unfair. RSA maintained it was entitled to decline the claim, but offered to pay him £100 in compensation for some general customer service failings. Mr M still didn't agree so he referred his complaint to this Service.

Our Investigator didn't uphold this complaint. He said Mr M had breached the policy conditions and he said he couldn't say it hadn't made a difference to RSA's claim liability.

Mr M didn't agree with the Investigator's opinion, so the complaint's 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.

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

The insurance policy covers damage to the property due to the illegal cultivation of drugs. But the policy also says that, in order for this cover to be provided, Mr M needed to:

*"A) Complete internal and external inspections of the Buildings at least once every 3 months and maintain a log of those inspections for at least 24 months.*

*B) Obtain, verify and retain written references from a current employer, guarantor or former landlord of any new tenant prior to allowing them to move in.*

*C) Obtain and retain formal photo identification such as a driving licence or passport of any new tenant prior to allowing them to move in.*

*D) Obtain and record details of Your tenant's bank account and verify those details by receiving at least one payment from that account.*

*E) Advise Your tenant where sub-letting is allowed by the tenancy agreement, that they must*

*follow the measures set out in terms A), B), C) and D) above for all lettings they arrange and make those details available to You when reasonably requested.”*

RSA sets out that the policy will not cover any property damage arising from the cultivation of drugs if these conditions are not complied with.

Mr M has said he'd not inspected the property for around five months before the damage was discovered. He also hadn't obtained references prior to the tenancy starting. So Mr M has breached the policy conditions. However, while the policy says no cover will be provided for breach of the policy condition, I've thought about whether this is fair.

Mr M has raised the following reasons why he thinks it's unfair:

- Scottish law doesn't allow for inspections of tenanted properties apart from assessing costs of repair.
- He had a gardener on site regularly. So believes the property was inspected.
- The Police advised that experienced drug cultivators can build the plants in a day. And he said the plants were only around 4-6 weeks old. So he believes the damage would have occurred regardless of whether the inspection took place.
- He'd spoken with the tenants' previous landlord who said there had been no issues with them before.

So Mr M says he thinks the incident would have occurred regardless of whether he'd complied with the policy terms or not.

I've taken all of Mr M's comments into account, but I don't think I can fairly say RSA's decision was unfair. Firstly, I can't agree that the gardener's presence is sufficient. The policy condition requires an internal and external inspection. But I haven't seen anything to show the gardener would go into the property. So this isn't enough to satisfy the policy condition. I also haven't seen Scottish Law prevents a landlord carrying out an inspection, so long as appropriate notice is provided, and Mr M's solicitor seems to have accepted this.

The policy condition RSA is relying upon is a standard term in most commercial property insurance policies. Insurers include such a term to minimise the risk of loss by both acting as a deterrent to build such a drug farm if the property will be regularly inspected but to also minimise any damage arising as a result of this.

I recognise that the drug farm had only been in existence for around two months. But I'm also conscious that Mr M was apparently around two months late with his inspection. So it's arguable that the fact that the farm was newly in existence supports the fact the inspection didn't take place was material to the loss.

Ultimately, Mr M has breached the policy condition and it's for him to show the breach wasn't material to the loss. And I can't reasonably say that the loss would have always incurred, or experienced the same level of damage, had the inspections taken place.

It follows, therefore, taking ever into consideration, I can't fairly conclude that it was unfair for RSA to decline Mr M's claim.

RSA has, however, acknowledged it caused some customer service failings and awarded £100 in compensation. Mr M hasn't raised this with this Service, so I haven't commented on that in this decision. If Mr M wishes to accept this compensation, he should contact RSA directly.

**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 Mr M to accept or reject my decision before 1 April 2025.

Guy Mitchell  
**Ombudsman**