

## **The complaint**

Mr C's complaint is about a claim he made on his Royal & Sun Alliance Insurance Limited ('RSA') legal expenses insurance policy.

Mr C says RSA treated him unfairly.

In this decision all references to RSA include their claims handlers.

## **What happened**

Mr C made a claim on his RSA legal expenses insurance policy for cover to deal with problems he was having with HMRC due to the actions of an accountant he engaged.

Mr C's complaint is about the time it took RSA to deal with his claim and provide him with an answer. He says the delays in their dealing with his claim meant that he had to cancel an appointment he made with an accountant, only for RSA to then ask the accountant to provide them with further information. He also says that if he'd gotten help from RSA in time, he could've had the full amount he was being asked to pay HMRC wiped off, but now the deadline to respond has been missed he can't do that. Mr C feels RSA are responsible for this.

Our investigator considered Mr C's complaint and concluded it shouldn't be upheld. She said that although RSA had caused some delays in dealing with his claim, they had offered him adequate compensation for this, and they hadn't prejudiced his position because his claim wasn't covered by the policy in any event.

Mr C doesn't agree so the matter has been passed to me to determine.

## **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 won't be upholding Mr C's complaint. This is why.

Mr C's complaint is essentially about how RSA handled his claim, rather than the fact that they declined it. These are the matters he's concerned about:

- The delays RSA caused in dealing with his claim;
- The fact that he didn't receive proper advice to help him with his claim so he could challenge HMRC properly.
- The impact of the delays caused meant he was out of time to respond to HMRC so he missed his chance to have the amount they were asking for written off;
- RSA focussed on the wrong part of his claim to start with, which contributed to the

delays.

### The Claim(s)

I can see the investigator addressed these issues in the round when she set out the chronology of things. I won't be doing that here but rather pointing to the reasons why I don't think RSA did anything wrong.

The starting point was the claim Mr C made. From what I've seen the initial claim Mr C made wasn't for advice in respect of HMRC, rather it appeared to be a claim against the accountancy practice he'd instructed to file his self-assessment tax returns and the fact that HMRC had determined that he wasn't entitled to his expenses. Mr C says he contacted his accountant and they told him he had signed a disclaimer to this effect, and this was down to him.

RSA turned the claim down on the basis that it didn't cover contract disputes where the contract was entered into before his insurance was in place- and in this case Mr C instructed the accountant he seemed to be complaining about in 2019, which was before cover was in place. They also said they couldn't consider the claim under the tax protection section of the policy because the claim Mr C was seeking to make wasn't in relation to the self-assessment but rather the fact that he had signed a disclaimer with his accountant agreeing to the position he found himself in with HMRC. They relied on the following term in this regard:

*"We will cover the Costs and Expenses if you are subject to a comprehensive examination by HM Revenue & Customs that considers all areas of your self-assessment tax return, but not enquiries limited to one or more specific area."*

Mr C says that RSA had misunderstood his claim. But I don't agree. The claim Mr C had made was framed as being against his accountants. And when asked by RSA to clarify if the claim was in professional negligence against the accountant, Mr C confirmed this was correct. This was noted in an email Mr C sent them in March 2023. But in May 2023 Mr C told RSA his claim was in relation the HMRC dispute and investigation into his self-assessment tax return. So, whilst Mr C says RSA considered the claim under the wrong section of cover and focussed on the wrong part of his claim, I think this was led entirely by the information he had supplied including confirmation of the claim he wanted to bring and the party he wanted to bring it against. So, I can't say RSA did anything wrong here.

In response to Mr C's request to look at the claim as against HMRC, RSA asked Mr C for confirmation of details of an accountant who would be prepared to consider dealing with his claim that they could contact to seek an opinion from, in accordance with the remaining terms of the policy. Mr C did this and RSA contacted the accountant for further information following this. No response was received from Mr C's accountant until after RSA issued a final response letter dealing with Mr C's complaint to them about the matters that have gone before this. I think it was reasonable for RSA to reconsider the claim in light of Mr C saying that he wanted help with HMRC when he asked for it. I don't think RSA could have done this before he told them that that's what he wanted, so I can't say that they did anything wrong here.

Although Mr C hasn't asked me to determine whether RSA were right to turn down the claim he made when he did, for the sake of completeness, I agree with the claims decisions they made about cover, when they made them and with their interpretation of the relevant policy terms based on the information they had at the time.

### Delays

RSA have already accepted that there were unnecessary delays on their part in dealing with Mr C's claim. In particular they've cited that they didn't always respond to Mr C in accordance with their service standards. In some cases, they accept that they took far longer than they should have to reply to him and that they didn't always keep him informed of what would happen next at times when this was necessary. RSA have also accepted that they didn't call Mr C back when he requested this on a few occasions. As a result, they apologised and offered him £200 in compensation for this.

The investigator identified that as well as the delays identified by RSA, they also took too long to contact Mr C's accountant. Mr C said this led to his making then cancelling an appointment with the accountant. But I can't say this meant that his claim was prejudiced. Rather it means he suffered some inconvenience.

The overall delay in dealing with Mr C's claim since it was submitted was, in my view, down to the fact that RSA were investigating cover for an entirely different claim- namely one against the accountant. But that was based on the information Mr C provided. So, I don't think I can say that RSA were responsible for this. And although Mr C says that the time it took for RSA to contact the accountant, he provided details of meant he was out of time to pursue things with HMRC, I haven't seen anything to support this- nor that he provided RSA with any details of an impending deadline that he was facing, for which he needed help that the policy would definitely offer. As things stand, RSA said they would consider funding his accountant's fees in helping him, but that was subject to the remaining policy terms. And it's not currently clear whether the claim is covered based on those terms so I can't say that he would be entitled to cover with any certainty. Because of this I can't say that RSA did something wrong, such that they need to do anything else. And I take the view that the offer of £200 in compensation adequately compensates Mr C for the way in which they handled his claim- in relation to delays in progressing it, for failing to keep him updated when they should have and for not calling him when he asked for this. If Mr C hasn't already accepted this amount, he can do so by contacting RSA directly.

Mr C feels adjustments should have been made for the way in which RSA communicated with him due to a learning difficulty. This didn't form part of Mr C's initial complaint against RSA and RSA haven't had the opportunity to comment on it. As such it's not a matter I can determine. What I am able to say however is that I haven't currently seen anything in the communications between Mr C and RSA that suggests that what they told him wasn't clear or that Mr C wasn't able to engage with them meaningfully. If Mr C wants to pursue a specific complaint in relation to this issue against RSA, then he will need to raise this with them directly in the first instance.

#### Alternative cover

I can see that RSA's claims handlers also looked at whether Mr C had cover for the claim against his accountant under another policy. I can't comment on that here because that's not the subject of this complaint and I'm not considering a claim against a different insurer in this decision. If Mr C is unhappy with the outcome of his claim under that specific policy, he will need to raise a complaint with that insurer directly.

### The ongoing claim

I don't know what Mr C's accountant's response was to RSA and whether there's a claim capable of cover currently. From Mr C's comments, it sounds like the claim might not have a prospect of succeeding. That's not something I can comment on however given it doesn't form part of this specific complaint. However if Mr C feels he hasn't received a final answer on his claim or that it still requires further attention from RSA, he should contact them directly.

### **My final decision**

For the reasons set out above, I don't uphold Mr C's complaint against Royal & Sun Alliance Insurance Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 12 January 2024.

Lale Hussein-Venn  
**Ombudsman**