

The complaint

Mr S complains that DAS Legal Expenses Insurance Company Limited did not pay all the costs he claimed for on his legal expenses insurance policy.

What happened

Mr S made a claim on his policy to cover costs relating to a dispute about a commercial property he owned, which was let to a tenant. He said the tenant had breached the terms of the lease, in particular by sub-letting the premises without his consent.

DAS accepted the claim and referred it to panel solicitors. They said the claim had a reasonable chance of success and advised Mr S of his options, including taking possession of the property through peaceable re-entry or making an application to the court.

Mr S took possession of the property and arranged for security to be put in place, to prevent the occupants returning. The tenant started legal proceedings but the proceedings were later settled.

When Mr S claimed his costs DAS said the security costs were not covered by the policy, which would only cover legal costs. Mr S complained about this, saying he had been told by DAS that all his costs would be covered but DAS did not change its position, though it did offer to pay £250 compensation for some poor service.

Mr S referred the complaint to this Service but our investigator didn't think it should be upheld. She said the policy only covers legal costs and although DAS had agreed to cover a limited amount of bailiffs' and locksmiths' costs, the further security costs Mr S had incurred were not covered. She said if Mr S wanted to accept the £250 offered he should contact DAS about that.

Mr S disagrees and has requested an ombudsman's decision.

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.

The relevant industry rules and guidance say insurers must deal with claims promptly and fairly and not unreasonably reject a claim. They should settle claims promptly once settlement terms are agreed.

This is a legal expenses policy and that's what it covers – legal expenses. The policy document says DAS will pay "costs and expenses" and these are defined as "*All reasonable and necessary costs charged by the appointed representative and agreed by us...*" together with paying the opponent's legal costs where the policyholder is ordered to pay them, or agrees to pay as part of a settlement.

So Mr S was covered for the reasonable legal costs charged by the panel solicitors. He

didn't have cover for other expenses he might incur.

DAS agreed to consider bailiff and locksmith costs, which I understand would form part of the costs of the legal action. In this case, after taking possession of the property, Mr S arranged for security to be put in place. He wants DAS to pay for the costs of that. I appreciate they arose as a result of the dispute and after Mr S took advice from the solicitors about protecting the property. But these are not legal costs charged by the solicitors. They are simply not covered by the policy.

These are expenses that Mr S might have been able to claim from the other party. I understand the terms of the settlement mean that's not possible. However unfortunate that is for Mr S, it's not something DAS is responsible for.

Mr S says DAS told him these costs would be covered. I haven't seen anything from DAS confirming that. Even if DAS had said this, it doesn't mean he was entitled to these costs which are not covered by the policy. And I don't think this is a situation where Mr S acted to his detriment and incurred costs that he wouldn't otherwise have incurred. Mr S would have wanted to protect his property anyway and he was able to seek legal advice about that. If he considers the solicitors didn't advise him properly, he would need to that raise with them.

I appreciate the whole situation was very difficult for Mr S and the additional costs he incurred would have added to that but, for the reasons I've explained, these costs are not covered by the terms of the policy. So it wasn't unreasonable for DAS not to cover these.

DAS accepted there were some failings in service, in particular relating to delays responding to Mr S, but offered compensation of £250 for that. I appreciate that was upsetting for Mr S and he was put to some trouble but I think £250 is a fair offer in the circumstances.

My final decision

DAS Legal Expenses Insurance Company Limited has already made an offer to pay £250 to settle the complaint and I think this offer is fair in all the circumstances.

So my decision is that, if it hasn't already done so, DAS Legal Expenses Insurance Company Limited should pay £250.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 9 January 2024.

Peter Whiteley
Ombudsman