

The complaint

Mr and Mrs P are unhappy with what Avantia Insurance Limited did after they contacted it about making a claim on the legal expenses section of their home insurance policy.

What happened

Mr and Mrs P have home insurance which includes legal expenses cover arranged through Avantia. In December 2021 they received a letter from solicitor's acting for their neighbour. I understand this related to a boundary dispute and trespass claim against them. Mrs P contacted Avantia in January 2022 and asked if the legal expenses provided as part of their policy would cover this.

The adviser said he thought the legal expenses policy "*would cover things like boundary disputes. 100%*". Mrs P said she'd previously been given conflicting information on this and the adviser suggested she get back in touch with the provider of the legal expenses policy (a different business) who would be able to clarify matters.

Mr and Mrs P made further calls to the helpline provided by their legal expenses policy. In September 2022 I understand their neighbours issued legal proceedings. Mr P spoke to Avantia again. The adviser gave basic information about the policy but said the legal advice helpline would be able to provide further information. Mr and Mrs P subsequently made a claim on their policy which the insurer turned down at the start of October. It said their claim was for the defence of legal rights in a property dispute which the policy didn't cover.

Our investigator agreed Avantia had given Mr and Mrs P misleading information about policy coverage when it spoke to them in January 2022. He didn't think they'd have acted differently if given clearer information as they were already aware of a dispute at that point. And it was unlikely they'd have taken out an alternative policy which would have covered them for that. But he accepted they'd have been unhappy to subsequently be told by their insurer their claim wasn't covered.

Avantia agreed to pay £200 in recognition of the impact of that on them. Mr and Mrs P didn't accept that. They said they'd been told on a number of occasions their insurance would cover the claim between December 2021 and September 2022. And they also raised concerns the policy had been mis-sold and suggested they wouldn't have renewed in 2022 if they hadn't been told it would cover the claim they wanted to make. They also said they were unhappy with the action of their legal expenses insurer.

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 thought first about what happened when Mr and Mrs P got in touch with Avantia after receiving the solicitor's letter in December 2021. I've listened to the call Mrs P had with the adviser in January and she did explain she was checking whether the policy would provide legal cover to defend themselves in a boundary disputes. In response the adviser said "I

would have thought that would cover things like boundary disputes. 100%". Given the policy didn't cover the defence of such a claim I agree that wasn't correct.

However, I don't think Mrs P relied on that as confirmation the claim would be covered. She went on to say that conflicted with what she'd been told by someone else. And the adviser confirmed the legal helpline provided by the insurer of her policy was best placed to advise on this. Mrs P confirmed she'd check with them whether she was covered for defending a claim.

I've listened to a subsequent call Mr P had with Avantia (prior to the decline of their claim) and I don't think any misleading information about what the policy would cover was provided in that; the adviser made clear they weren't in a position to provide detailed information about policy coverage and Mr P would need to contact the legal expenses provider for more information.

I do appreciate having a claim made against them has caused Mr and Mrs P a great deal of distress. They've referenced the need, for example, for counselling and loss of earnings. I'm sorry to learn about the impact all of this had. But I'm only considering here how anything Avantia got wrong affected them. It isn't responsible for the decision to decline their claim or for anything they were told in their calls to the legal helpline. And I think the £200 Avantia has agreed to pay is enough to recognise any distress Mr and Mrs P were caused which results from the misleading information they were given in their January 2022 call.

Mr and Mrs P have also suggested they weren't given clear information about the cover the policy provided for property disputes when they first took this out (which was in 2017). For a sale like this the relevant rules say Avantia is responsible for providing information covering matters such as the main benefits, exclusions and limitations of the policy. I'm not clear Avantia did draw the fact the property disputes section of the legal expenses policy didn't cover the defence of a claim to their attention but I don't think it needed to.

Taking into account what the relevant rules say I think it should provide information about things that would affect the decision of customers generally to buy. I'm not persuaded the restriction in this case met that test. It only limits one aspect of the legal expenses cover as it relates to property disputes (and that cover is itself only one part of the broader home insurance Mr and Mrs P were taking out). I don't think more information on this would affect the decision of a consumer generally to buy so I'm not persuaded information about it should have been provided to Mr and Mrs P by Avantia.

In any case even if Mr and Mrs P had understood more about this, I don't think it would have made a difference to their decision making. The policy was sold prior to them knowing there was any issue with their neighbour so that couldn't have influenced their decision. And while Mr and Mrs P have made reference to the cost of the cover the legal expenses policy was included as standard with their home insurance and I understand they didn't pay an additional cost for it. I think it's unlikely they'd have sought a different home insurance policy solely on the basis of a restriction in cover for the included legal expenses policy which they didn't know would impact them at that point.

Mr and Mrs P have also said they might have decided against renewing the policy if they hadn't been told it would cover the claim they wanted to make. However, they'd already confirmed renewal of the policy in January 2022 prior to the relevant conversation with Avantia. In any event they were already aware of the dispute with their neighbour. So it's unlikely any similar legal expenses policy would have covered what was by then a pre-existing dispute. And, as I've said, the primary purpose of their insurance was to provide buildings and contents cover for their property which is something they'd still have required.

My final decision

I've decided to uphold this complaint. Avantia Insurance Limited will need to pay Mr and Mrs P £200.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P and Mr P to accept or reject my decision before 21c November 2023.

James Park
Ombudsman