

The complaint

Mrs S is unhappy Royal & Sun Alliance Insurance Limited turned down a claim she made on her legal expenses insurance policy.

What happened

Mrs S has legal expenses insurance as part of her motor insurance policy. RSA is the insurer of the legal expenses policy. Last year Mrs S bought a used car from a dealership which developed a problem in January of this year. She wasn't able to resolve matters with the dealership and sought assistance from her legal expenses policy to pursue a breach of contract claim.

After carrying out an initial assessment of the claim RSA referred it to panel solicitors for an assessment of whether it had reasonable prospects of success (a requirement of the policy). The panel solicitors advised it didn't. Mrs S provided detailed comments on what the panel solicitor had said. RSA referred the matter back to the solicitor and he explained why his opinion remained unchanged. So RSA said it wouldn't be providing cover for her claim.

Our investigator thought the assessment from the panel solicitor was properly written and reasoned and from someone qualified to give it. And he thought it was one RSA were entitled to rely on. He didn't think it acted unfairly in turning down Mrs S's claim.

Mrs S didn't agree. She said the legal assessment hadn't been carried out properly and RSA should have done more to investigate the concerns she raised about this. And she wasn't in a position to fund an alternative legal opinion of her own. So I need to reach a final 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 rules and industry guidelines say RSA has a responsibility to handle claims promptly and fairly. It shouldn't reject a claim unreasonably

I've looked first at the terms and conditions of Mrs S's policy. It's a condition of cover that "*we have assessed your claim and deem it to have prospects of success*". And the policy defines prospects of success as "*at least a 51% chance of you achieving a favourable outcome.*"

As an insurer isn't a legal expert we don't think it's in a position to carry out that assessment and it should be carried out by a suitably qualified lawyer who has relevant experience. Where that has been done we think it's reasonable for an insurer to rely on a properly written and reasoned legal opinion when deciding whether a claim has prospects of success or not.

In this case RSA did refer the matter to one of its panel firms for assessment. I can see that assessment was carried out by a qualified lawyer whose area of practice includes consumer

law. I've read the assessment and I think it is properly written and reasoned; it addresses the claim made by Mrs S and gives reasons for why it's unlikely to succeed.

I appreciate Mrs S disagrees with that assessment but I don't think there was any reason why RSA shouldn't have relied on it when concluding the policy terms as they relate to prospects of success hadn't been met. I also think it was right RSA then advised Mrs S of her next steps including that she could get an alternative legal opinion of her own.

I understand Mrs S wasn't in a position to do that but she did provide detailed comments on the legal opinion. I think it was right RSA referred those comments back to the panel solicitor to see if they made a difference to his thinking. He provided a response in which he explained why they didn't. RSA provided details of that response to Mrs S. And in the absence of a contrary legal opinion there isn't more I'd then have expected RSA to do. I appreciate Mrs S was very disappointed at having her claim turned down but I think RSA acted in line with the policy terms and treated her fairly in doing so.

My final decision

I've decided not to uphold this complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 2 October 2023.

James Park
Ombudsman