

## **The complaint**

Mr B complains Royal & Sun Alliance Insurance Limited (RSA) has unfairly declined a claim under his legal expenses insurance (LEI) policy. And he's unhappy with the solicitor RSA appointed to deal with his legal claim.

Any reference to RSA includes the actions of its agents.

## **What happened**

The circumstances of this complaint are well known to both parties, so I'll summarise what's happened.

- Mr B sought to use his LEI policy to pursue a legal claim against a contractor for alleged poor workmanship.
- On receipt of the claim, RSA referred the matter to a panel solicitor (who I'll refer to as 'S') for a prospects of success assessment.
- Initially, it seems S said the claim enjoyed reasonable prospects of success and advised RSA the respondent had offered to settle the dispute. S later said the claim didn't enjoy prospects of success, but that if Mr B provided certain evidence, it would reassess the claim.
- In early December 2021, S told RSA a letter had been sent to the respondent and it was awaiting a reply. The position remained the same in March 2022.
- In May 2022, S provided a legal opinion which confirmed that because Mr B hadn't provided enough evidence to support his legal claim, there wasn't prospects of success.
- In June 2022, Mr B provided some information, but it didn't change S' legal opinion.
- S subsequently made RSA aware Mr B had complained about S' handling of his legal dispute and that he considered RSA responsible for S's action because it had appointed S.
- RSA advised Mr B that it was entitled to rely on S' legal advice and if he wanted to challenge S' opinion he could provide his own legal opinion or new information for S to consider. Overall, though, RSA was satisfied it had handled Mr B's claim fairly.
- Unhappy Mr B brought a complaint to this Service. An Investigator considered it and didn't uphold it.
- Because Mr B disagreed, the complaint has been passed to me for 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.

Having done so, I'm not upholding this complaint and I'll explain why.

- It's important to clarify I'm not considering Mr B's concerns about S and the time it took to deal with his claim. S, as a solicitor, is regulated by an independent body and its conduct and professionalism isn't something this Service can comment on.
- The issue here is whether it was reasonable for RSA to decline Mr B's claim on the basis it didn't have reasonable prospects of success.
- The starting point in determining this is the policy document which says there isn't cover for *"any claim where there is not a reasonable chance of you winning the case and achieving a reasonable outcome."*
- Because RSA isn't a legal expert, a prospects of success assessment should be completed by a qualified lawyer with the legal knowledge and expertise to advise on whether the case is likely to succeed in court.
- I've seen evidence which confirms the legal opinion given by S has been verified by a suitably qualified solicitor. And in the absence of there being anything obviously wrong with the legal advice, I'm satisfied it's reasonable for RSA to rely on it.
- RSA has explained as the legal claim doesn't enjoy prospects of success it won't be able to fund Mr B's claim or appoint an alternative panel solicitor. I'm satisfied that's reasonable in the circumstances as, as it stands, the policy terms haven't been met and so Mr B doesn't have a valid claim.
- RSA has told Mr B what his options are going forwards – namely, provide a legal opinion from a suitably qualified legal professional to challenge S' opinion or provide new information which S hasn't previously considered. And I consider this to be reasonable in the circumstances. So, I'll leave it with Mr B to decide if he wants to do this.

## **My final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 22 August 2023.

Nicola Beakhust  
**Ombudsman**