

The complaint

Ms T complains about the way Royal & Sun Alliance Insurance Limited (RSA) handled a claim against his Motability car insurance policy.

What happened

The details of this complaint are well known to both parties, so I won't repeat them here in any detail. Instead, I'll focus on the reasons for my decision.

Ms T has a Motability vehicle insurance policy. This means she hires her car from Motability and RSA provides a policy for each hirer to cover those who are named as permitted drivers on the policy. This is similar to a comprehensive motor insurance policy and RSA handles claims by customers like Ms T.

A claim was made on the policy for an accident in September 2019. At the time, it was being driven by a family member who is named as a permitted driver on the policy.

Another family member was a passenger at the time of the accident. Ms T explained to our service she acts for the passenger as he lacks the capacity to do this himself. And she says he was treated poorly by the legal firm acting in this matter. This includes:

- Implying they've been dishonest;
- Poor communications; and
- A general failure to consider his disabilities when handling this matter.

When Ms T raised her concerns with RSA, it explained it isn't responsible for and doesn't control the actions of the legal firm. However, it didn't feel Ms T received good service and offered £100 for this. Ms T says this isn't enough and brought her complaint to this service.

While the matter been with this service, RSA explained instructions were sent to the legal firm the day after the claim was notified to it. And, after Ms T raised a complaint with it in August 2022, it referred the matter to the legal firm to investigate as well as offering Ms T compensation itself. Finally, RSA confirmed it was willing to increase the compensation offered to Ms T to £250.

The matter was then passed to me and I issued a provisional decision on 8 November 2023. An extract of my findings is set out below.

'Where there's a dispute about what has happened, I've based my decision on what I think's more likely to have happened in light of the evidence.'

Firstly, I think it's important to explain the legal firm was instructed to defend the liability of Ms T (and the permitted driver) on behalf of RSA. It wasn't instructed to advance the passengers claims for his uninsured losses, although I appreciate resolving this may be a part of satisfying the legal firm's instructions.'

Whether the firm was instructed through the legal expenses insurance section of the motor insurance policy or in defending Ms T's (and the permitted drivers) position, the actions of RSA which can be considered by this service are limited. We don't usually hold insurers responsible for how a legal firm has handled the claim. That's because, once the insurer – here RSA - appoints a legal firm, its role is primarily limited to funding the costs.

So, I've thought about the matters I can consider in this complaint against RSA. From the little information I've seen and limited contact I can see RSA had with Ms T and the legal firm, I'm satisfied RSA instructed it promptly and responded to its questions. That said, I noted a delay in RSA responding to one of the queries raised by the legal firm.

Taking everything into account, I consider the offer of £250 is a fair and reasonable way to resolve the parts of the complaint which may be considered in this matter against RSA. Indeed, it's likely more than I would've awarded given RSA's limited responsibility here.

As the Investigator explained, we don't have a free hand to investigate all complaints referred to us. We must act within the powers which are set out by the Financial Services and Markets Act 2000 along with the Financial Conduct Authority's (FCA) Dispute Resolution (DISP) Rules. These can be found on the FCA's website.

So, whilst I understand the focus of Ms T's complaint is the handling of the passenger's personal injury claim, I've explained why that's not something I can consider in this complaint against RSA. Further, the passenger isn't an eligible complainant under this insurance policy, nor is the legal firm within our jurisdiction.

I recognise Ms T is unhappy and wants our service to consider the full extent of her complaint. But, when considering the jurisdiction of this service, Ombudsmen are required to work within the confines of the rules; they can't simply be disregarded no matter how strongly a customer feels we should.

Any concerns Ms T has with the service provided by the legal firm may be taken to the Legal Ombudsman (for and on behalf of the passenger, as appropriate) as it has specific jurisdiction over legal service providers.'

Both parties responded to the provisional decision. RSA accepted the outcome. Ms T didn't. She made further points for consideration which are summarised below:

- RSA didn't make contact with her to put forward the offer of £250, she was told about it by a colleague at this service. And she doesn't agree it's sufficient for what RSA continues to put them all through.
- RSA still fails to consider the passengers disabilities when handling this matter and shared evidence with this Service in support of this.

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 reviewed the parties replies and they've not persuaded me to change my provisional decision. Our jurisdiction in this matter is limited.

On the part of the complaint which may be considered by this service in this complaint against RSA, I'm satisfied the offer of £250 is a fair and reasonable way to resolve it. Whilst Ms T has explained the amount isn't sufficient, it's likely more than I would've awarded given

RSA's limited responsibility here.

It follows my final decision reflects my provisional decision. I uphold the part of Ms T's complaint against RSA I can consider.

Putting things right

Royal & Sun Alliance Insurance Limited should pay £250 to Ms T, as it has offered to do.

My final decision

I uphold the part of the complaint I can consider. To put things right on this, I require Royal & Sun Alliance Insurance Limited to pay £250 to Ms T, as it has offered to do.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms T to accept or reject this part of my decision before 9 January 2024.

Rebecca Ellis
Ombudsman