

The complaint

Mr L's complaint is about a claim he made on his DAS Legal Expenses Insurance Company Limited ('DAS') legal expenses insurance policy, which DAS declined.

Mr L says DAS have treated him unfairly and that the reason they've cited to decline his claim is wrong.

What happened

Mr L has made several claims on two legal expenses insurance policies he holds both in a personal and commercial capacity. I won't be commenting on those claims except the one that relates to this specific complaint which is about a claim Mr L wanted to make against his former Solicitors for professional negligence.

DAS considered Mr L's claim and declined it on the basis that the event that led to the claim was before the start date of the policy and this wasn't something that was covered. Specifically, DAS said the policy started on 10 June 2020 but the event that led to the claim was on 3 June 2020.

Mr L disputes this. He says the event that led to the claim was after the policy started and this can be evidenced by the invoices he received from his former Solicitors, which were dated 28 June 2020. He says he first became aware of the problem when he received these invoices.

Our investigator considered Mr L's complaint and concluded it shouldn't be upheld. She said that the invoices he's referred to relate to work from 5 February 2020 which predates the policy. As such DAS were entitled to decline his claim. Mr L doesn't agree so the matter has been referred to me to decide.

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 don't uphold Mr L's complaint for broadly the same reasons set out by the investigator. This is why.

The starting point is the policy terms. They say:

"We agree to provide the insurance described in this policy for you (or where specified, the insured person) in respect of any insured incident arising in connection with the business, in return for payment of the premium and subject to the terms, conditions exclusions and limitations set out in this policy, provided that:

...

3 the date of occurrence of the insured incident is during the period of insurance."

“Date of occurrence” is defined as:

“(a) For civil cases... the date of the event that leads to a claim. If there is more than one event arising at different times from the same originating cause, the date of occurrence is the date of the first of these events. (This is the date the event happened, which may be before the date you or an insured person first became aware of it.)”

The issue I need to determine is whether the date of occurrence of the insured incident took place during the period of cover. To decide this, I've thought about the substance of the claim Mr L made to DAS. He was seeking to challenge sums he's been ordered to pay his former Solicitors as he feels they acted negligently when he instructed them to act for him in respect of a number of legal disputes. The specific issue he's looking to challenge is the payment of three invoices the firm of Solicitors submitted. They were all dated 28 June 2020.

I appreciate that Mr L says he didn't become aware of the issues he's seeking to claim for until he received those invoices on 28 June 2020 but given the policy terms say the date of occurrence is *“the date the event happened, which may be before the date you or an insured person first became aware of it”*, I don't think this matters. The fees he is seeking help to challenge are for work conducted before the policy was in place, so the start date of that work is the date of occurrence. As such I think DAS correctly applied their policy terms when turning down his claim and I see no reason why that was unfair in this case. I say so because the papers I've seen indicate that Mr L was aware of certain issues with his Solicitors at least in early June and before the start date of the policy that would give him reason to seek to challenge them in some shape or form. The fact that this manifested in his seeking to challenge their fees on receipt of an invoice dated on 28 June doesn't make me think he only became aware something that would lead to a claim at that point.

Overall, I haven't seen anything that makes me think DAS did anything wrong in turning down Mr L's claim in the way that they did.

My final decision

For the reasons set out above, I don't uphold Mr L's complaint against DAS Legal Expenses Insurance Company Limited

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 23 November 2023.

Lale Hussein-Venn
Ombudsman