

The complaint

Mr L and Mrs S complain that Royal & Sun Alliance Insurance Limited (“RSA”) rejected a claim for legal expenses insurance cover and about delays in dealing with the claim.

Where I refer to RSA, this includes its agents and claims handlers acting on its behalf.

What happened

Mr L and Mrs S have legal expenses cover included with their home insurance policy. Mr L made a claim on the policy for cover relating to a legal claim he wished to pursue. Although the policy is in joint names the claim was made by Mr L and so I’ll refer to him throughout.

Mr L had ordered some furniture but when his sofa was delivered, cushions that should have been provided with the sofa were not delivered. He wanted to pursue legal action against the retailer and made a claim on his policy to cover the legal costs.

RSA referred the claim to one of its panel firms of solicitors to assess. Mr L was unhappy with the time being taken to assess the claim and said the solicitors had asked for information he’d already provided. A different firm of solicitors was then asked to assess the claim.

The solicitors said it would not be proportionate to pursue the claim as the costs were likely to be higher than the amount Mr L was claiming. So RSA declined cover.

Mr L complained but RSA didn’t change its decision. RSA said it couldn’t comment on the solicitors’ actions but the case had been passed to a different panel firm after Mr L raised his concerns. RSA acknowledged some upset caused to Mr L by the way one phone call had been dealt with and apologised for that.

When Mr L referred the complaint to this Service our investigator didn’t think it should be upheld. Mr L disagreed and said if the costs were too high RSA should have offered to pay him the value of his claim. The investigator considered this but didn’t change her view. So the complaint has been passed to me to determine.

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 industry rules and guidance say insurers must deal with claims promptly and fairly and should not unreasonably reject a claim.

The policy provides cover for the type of claim Mr L wished to pursue but only if the claim is likely to succeed. Almost all legal insurance policies include terms like this. And since it’s a legal matter whether the case is likely to succeed, that’s something the insurer refers to solicitors to assess.

RSA passed the claim to one of its panel solicitors to assess. I appreciate Mr L was unhappy with the time it took them to consider the claim but RSA isn't responsible for the solicitor's actions. What I'd expect it to do is respond to any concerns a policyholder raises and RSA did that.

The case was passed to another firm of solicitors who provided their assessment promptly. They explained that the value of the claim was relatively low and the costs of pursuing it would be higher, so even if the claim had reasonable prospects of success it wasn't proportionate to pursue.

It's reasonable for an insurer to rely on legal advice as long as it's properly reasoned. And it wouldn't be reasonable to expect RSA to provide cover where the likely costs would be more than the amount being claimed. I'm satisfied in this case it was reasonable for RSA to rely on the advice it received. RSA explained to Mr L that if he disagreed, he could seek his own legal advice, which is what I'd expect an insurer to do in these circumstances.

Mr L pointed out that where the costs are likely to be higher the amount in dispute, RSA had the option of paying him the value of his claim. Although the policy terms allow RSA to do that, it's not something Mr L is entitled to but rather something that RSA may consider.

The policy terms say where the claim is not proportionate to pursue, the most RSA will pay is the value of the likely award the court might make. RSA has explained that it was initially thought the amount Mr L was claiming was around £1,500 but the legal advice assessed the value at £400. RSA had already incurred costs higher than this dealing with the claim and obtaining the legal advice so did not consider it should pay a further amount to Mr L. In the circumstances I think that was reasonable.

I appreciate Mr L is very upset about the way the claim was assessed and that it wasn't covered. But RSA passed it to solicitors and responded to Mr L when he raised concerns. RSA identified some poor service given to Mr L during a phone call and apologised for that. Its decision not to provide cover was based on the legal advice, was made in line with the policy terms and was fair.

My final decision

I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L and Mrs S to accept or reject my decision before 16 January 2024.

Peter Whiteley
Ombudsman