

The complaint

Mrs B and Mr E complain that DAS Legal Expenses Insurance Company Limited signposted Mr E to a counselling service that he wasn't entitled to use, causing him distress and humiliation.

What happened

On a call to DAS in 2021, Mr E became very upset that cover for his claim was being withdrawn. He tells us that he begged the advisor not to do so as it would have a negative effect on his mental health. Given his distress, the advisor gave Mr E the details of a counselling service he could contact for support.

Mr E called the counselling helpline. But after divulging some very sensitive personal details, he was told he wasn't entitled to use the service. Mr E says he felt humiliated by this experience and raised a complaint to DAS.

In his letters to DAS dated 29 November 2021 and 1 August 2022, Mr E says he was told he couldn't use the counselling service because he wasn't a DAS employee.

DAS investigated the complaint and issued a final response dated 3 February 2023. It explained that the counselling service was available to DAS customers, but on review of the case notes provided by the helpline, it stated that Mr E had told the helpline that his insurance had been terminated. DAS advised that this might've been why he may not have been entitled to access the service. As such, DAS didn't uphold the complaint.

Mr E brought his complaint to our service. He told us that he'd been refused access to the counselling service because the indemnity on his claim had been withdrawn.

Our Investigator didn't uphold the complaint. She explained that we didn't have jurisdiction over the actions of the counselling service, as this was provided by a third-party company for which DAS wasn't liable. She'd looked solely at the actions of DAS, and she didn't think it had acted unreasonably by signposting Mr E for help given how distressed he was.

Mr E didn't agree. He says the Investigator has failed to take into account the impact this had on his disability and mental health. Nor has she considered that he didn't receive a response to his complaint for over a year.

As such, the complaint has been passed 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've reached the same conclusion as our Investigator and for broadly the same reasons. I've set out the key reasons why below:

- It's not in dispute that Mr E was significantly upset and distressed in his call with DAS. He says he specifically told the advisor that the decision on his claim would have a negative effect on his mental health and that he was already seeing a psychiatrist and on strong medication.

As our Investigator has explained, the advisor has two options at this point; 1) to not do anything, or 2) try to get Mr E some support. Given that DAS offer its customers access to a counselling service, I would be concerned if the advisor hadn't given Mr E the details of the helpline as it was clear this would be something he'd benefit from. So it follows, that I'm satisfied DAS acted correctly on this call rather than doing nothing.

- DAS' customers have access to a counselling service. I've verified this by calling the helpline number and confirming with an advisor that it's not solely for DAS employees. It's not clear why Mr E thought this was the case. I've not seen any evidence that he was told this, in fact Mr E's complaint to us doesn't even imply this – only his complaint to DAS directly.
- DAS' final response to the complaint says the counselling service's case notes suggest that Mr E had told them his insurance had been terminated. As such, the counselling service would've reasonably concluded that Mr E was no longer a customer of DAS as he didn't have an insurance policy in place anymore. They weren't to know that it wasn't the policy itself that had been terminated, but rather the indemnity cover for that particular claim.

I don't know what Mr E specifically told the counselling service, and whether they had misunderstood what he'd told them. But as our Investigator has explained, the counselling service doesn't form part of his insurance contract and the provider of that service isn't acting as an agent for DAS. So I can't hold DAS liable for their actions. And I can't look into a complaint directly against the counselling service as they fall outside our jurisdiction.

- Whatever reason the helpline gave Mr E, I have no doubt that he would've felt vulnerable and distressed after disclosing confidential and sensitive information only to be told that he wasn't entitled to use the service. He has my sincere empathy for what I can only imagine he would've felt after this experience.

But as I've explained, I can't hold DAS liable for the counselling service's actions. And I don't think it was unreasonable for DAS' advisor to give him the details for this service when he was clearly in need of some emotional support.

- I'm aware that Mr E raised this complaint point in 2022, but he didn't receive a final response letter specifically addressing this issue until 2023. I do understand this would've been frustrating, but I'm mindful of the number of complaints and complaint points Mr E has raised to both DAS and our Service so I can appreciate how some issues may have been overlooked.

I'm not persuaded the delay in getting an answer to this specific complaint point caused an impact to Mr E other than some minor inconvenience of having to follow up the issue with DAS. I say this because it isn't a complaint issue where the outcome has any impact on his claims or the cover under his policy. So I'm not persuaded that compensation is warranted here.

My final decision

For the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B and Mr E to accept or reject my decision before 11 September 2023.

Sheryl Sibley
Ombudsman