

## **The complaint**

Mr C2 is unhappy with what U K Insurance Limited did after he made a legal expenses insurance claim.

The policyholders are Mr and Mrs C but the claim and complaint relate to Mr C2 who I'll refer to in this decision.

## **What happened**

Mr C2 has the benefit of legal expenses insurance through a family protection policy. In December 2022 he was involved in an accident and contacted UKI for assistance with a personal injury claim. UKI referred the matter to one of its panel solicitors to assess whether the claim had reasonable prospects of success (a requirement of the policy).

In February Mr C2 contacted UKI and said there had been delay in a handler being allocated and he wanted to use his own solicitor. UKI investigated and agreed there had been an unacceptable delay in the panel firm allocating the case (though that had now happened). It didn't think he had the right to choose his own solicitor but paid £100 in recognition of the inconvenience the allocation delay caused.

Mr C2 contacted UKI again in April raising further concerns about the actions of the panel firm (including delay in moving matters forward and obtaining a medical report). He thought UKI should allow him to use his own solicitor. UKI investigated and obtained information from the panel firm. Having reviewed that it didn't think there had been further delays by the solicitors and medical information was being obtained. It didn't uphold Mr C2's complaint.

Our investigator agreed Mr C2 didn't have the right to appoint his own solicitors. And while there had been some initial delay by the panel firm the compensation UKI had offered for that delay was fair. If Mr C2 had further concerns about the actions of the panel firm that was something he might be able to pursue with the Legal Ombudsman.

Mr C2 didn't agree. He didn't believe the service provided by the panel firm had been appropriate or in line with the standards referenced in his policy. And he didn't think UKI had properly investigated those concerns because it wasn't in their interest to do so. He highlighted the initial delay in the claim being allocated and said there had been further problems since then (which he set out in a detailed timeline). He thought he should now be able to choose his own solicitor.

## **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 appreciate Mr C2 has asked to speak to the Ombudsman dealing with his complaint. I've thought carefully about whether that's something I need to do in order to reach a fair outcome. I don't think it is. Mr C2 has had the opportunity to provide his comments in his initial complaint to us and in response to our investigator's view. I've reviewed everything he

and UKI have said and I'm satisfied that, having done so, I have the information I need to reach a fair decision on this complaint.

The relevant rules and industry guidelines say UKI has a responsibility to handle claims promptly and fairly. It shouldn't reject a claim unreasonably. And it's a requirement of Mr C2's policy that for cover to be provided for a claim it needs to have reasonable prospects of success. The policy defines that as "*there is a better than 50% chance that you will: obtain a successful judgment, and recover your losses or damages or obtain any other legal remedy we agree to...*" And, as an insurer isn't a legal expert, we think that assessment should be carried out by a suitably qualified legal professional.

So I think it was right UKI referred the matter to panel solicitors so that could be done. And UKI isn't responsible for the actions (or inactions) of that firm when carrying out their legal role. The panel firm are a separate set of professionals to UKI with their own set of rules and a different regulator. If Mr C2 is unhappy with the actions of the panel firm (including whether it met relevant service standards) then, as our investigator said, that's something he might be able to raise with the Legal Ombudsman.

But where a policyholder raises concerns about the actions of a panel firm we would expect an insurer to look into what had happened. That might mean raising the issues with the panel firm and trying to get matters back on track if any problems were identified. And I think that's what UKI did in this case. In response to Mr C2's contact with it in February 2023 it contacted the panel firm to find out what was happening with the case. And it identified there had been delay here and paid Mr C2 £100 in recognition of the inconvenience he'd been caused. Given his claim had by then been allocated to a handler I think that was a reasonable way of dealing with this issue.

Similarly, when Mr C2 contacted UKI in April 2023 with further concerns about the progress of his claim I also think UKI took appropriate action. It contacted the panel firm and obtained a chronology of its actions. And having reviewed that UKI didn't identify significant additional delays and explained its position on that to Mr C2. It also confirmed that it hadn't identified calls which hadn't been returned but would look into this further if Mr C2 could provide further information about this. I think that was an appropriate way of responding to Mr C2's concerns. I don't agree UKI didn't properly investigate the issues he raised.

Mr C2 thinks UKI should have allowed him to use his own solicitor. But his policy says that applies "*if it is necessary to take your claim to court, or if there is a conflict of interests*". And our approach (which takes into account the relevant legislation) is that a policyholder's right to choose their own solicitor applies where legal proceedings need to be started. They would only be able to appoint their own solicitor prior to that in exceptional circumstances.

In this case legal proceedings didn't need to be started when Mr C2 contacted UKI. In fact, at the point the issues giving rise to Mr C2's complaint took place it doesn't appear the panel firm had established whether his claim had reasonable prospects of success or not. So I don't think Mr C2 did have the right to choose his own solicitor.

And while I appreciate there was an initial delay in the complaint being allocated by the panel firm I don't think the nature and extent of that failing is something that constitutes exceptional circumstances which should have led UKI to agree to him appointing his own solicitor. As I've said I think it acted appropriately in response to the concerns Mr C2 raised by ensuring the claim had been allocated and paying compensation.

Mr C2 has outlined in his timeline of events issues that have taken place since the last final response UKI provided on his complaint. And he believes that demonstrates further failings by the panel firm. But those aren't matters which form part of this complaint. If Mr C2 wants

UKI to look into these matters he would need to raise them with it so it has the opportunity to investigate and respond. If he's unhappy with any response it then provides that's something we could potentially consider as part of a new complaint.

### **My final decision**

I've decided not to uphold this complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs C and Mr C2 to accept or reject my decision before 31 January 2024.

James Park  
**Ombudsman**