

The complaint

Mr D is unhappy Royal & Sun Alliance Insurance Limited turned down a claim he made on a wedding insurance policy he took out to cover his daughter's wedding.

What happened

Mr D took out wedding insurance with RSA to cover his daughter's wedding. His daughter signed a contract with a professional photographer who she'd researched and whose style appealed to her. Two days prior to the wedding the photographer emailed to say she couldn't attend for reasons relating to Covid-19. But an associate would carry out the photography instead. The day before the wedding that associate said she had caught Covid-19 but had arranged for a different photographer to attend.

Mr D says that photographer told him on the day she didn't normally do weddings of this size and had minimal instructions from the contracted photographer. Mr D and his daughter were unhappy with the photographs that had been taken and made a claim on their policy. They wanted reimbursement of the £2,400 they'd paid to the contracted photographer. RSA said a professional photographer had been sourced to fulfil the original contract and Mr D hadn't incurred any additional costs. So it didn't think the claim was covered by their policy.

Our investigator said the policy covered the non appearance at the wedding and reception of *"the professional photographer or professional video operator contracted"*. Where that was the case it would pay the cost of photographers to take or retake photographs or refund any irrecoverable amount that Mr D had contracted to pay. He was satisfied that applied here because the photographer Mr D's daughter had contracted with didn't appear at the wedding. He thought RSA should pay the claim in full plus interest at 8%.

In response RSA accepted the claim was covered by the policy because the contracted photographer hadn't appeared at the wedding. But it didn't think Mr D's loss was the full value of the contract; it thought it was reasonable to deduct from that any benefit they had received. It thought the photographer who had attended would have charged £1800. It argued the loss to Mr D was the additional £600 paid to the contracted photographer (less the policy excess of £50). So I need to reach a final decision.

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 rules and industry guidelines say RSA has a responsibility to handle claims promptly and fairly. It shouldn't reject a claim unreasonably.

I've looked first at the terms and conditions of Mr D's policy. The relevant part of the term relating to to "Wedding photography and video" says:

"We will pay up to the amount shown in your Schedule of cover or the amount you paid for the original services (whichever is less) for the cost of photographers and/or video/DVD

operative fees, re-hire of ceremonial attire, hair and make up stylist fees, incurred to take/re-take wedding photographs or videos or refund any irrecoverable amount which you originally contracted to pay as a direct and necessary consequence of:

- *non-appearance at the wedding and wedding reception of the professional photographer or professional video operator contracted"*

I've seen the contract between Mr D's daughter and the professional photographer which is a contract for that photographer to attend the wedding. That didn't happen. And it doesn't appear the photographer who did attend had any specific connection with the contracted photographer; Mr D's recollection is she'd received minimal instructions from her. So I think that because the contracted photographer didn't appear cover is available under this section of the policy. And RSA now appears to have accepted that.

The issue is the extent of cover the policy should provide. RSA has cited case law in support of its position that this is a contract of indemnity and an insured must have suffered a loss in order for recovery under the policy to be possible. And any sums otherwise recovered reduce the amount payable by an insurer. I understand that and I don't think the legal position is in dispute. And so in principle I agree it's reasonable to take into account benefit Mr D has already received in deciding what should be payable under the terms of this policy.

RSA says as a photographer did attend the wedding a photography service has been supplied. It's valued this at £1,800 based on information on that photographer's website. So it says the loss to Mr D's is the amount he paid in excess of that (and to refund the full amount would result in him receiving more than a full indemnity). However, I'm not sure the figures it's quoting in relation to this are accurate. It's based them on current charges listed on the photographer's website but Mr D has told us that at the time of the wedding the charge would have been £1,400.

In any case I don't think that's the key issue here. RSA's argument is based on the premise that the photographs which were taken are comparable to those that should have been (so the loss is the additional cost paid to the contracted photographer). However, I don't think it's as simple as that. Mr D has explained his daughter chose the contracted photographer because after carrying out research she liked the sample photographs she'd previously taken and wanted photographs in that distinctive style. He says that photographer is one of the top ten wedding photographers in the country (which is supported by online information). And the photographer's website describes her shooting style as "*within the realm of contemporary art, fashion, and reportage*". The contract says the images will be "*in my signature style*".

But that photographer didn't attend the wedding. The photographer who did doesn't appear to have any direct connection with her or received any particular instructions on how the photographs were to be taken. And she describes her style differently as "*relaxed, fun documentary wedding photography with a creative and colourful twist*". I think it's therefore reasonable to say none of the photographs that have been taken are in the specific style Mr D and his daughter had researched, were expecting and had paid for.

Given that I don't think it is right to take into account the photographs that were taken when considering what the loss to Mr D is. I think it's more reasonable to say he and his daughter don't in fact have any photographs of the wedding in the style they agreed and paid for. Under the terms of the policy I think they're therefore entitled to recover the full amount they paid for that service which hasn't been provided in its entirety.

Putting things right

RSA will need to pay Mr D's claim in full (less the policy excess). It will also need to pay interest at 8% simple on that amount from the date the claim should have been paid (28 October 2021) until the date it is.

If RSA considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr D how much it's taken off. It should also give Mr D a tax deduction certificate if he asks for one so he can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

I've decided to uphold this complaint. Royal & Sun Alliance Insurance Limited will need to put things right by doing what I've said in this decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 24 November 2022.

James Park
Ombudsman