

The complaint

Ms A is unhappy with what DAS Legal Expenses Insurance Company Limited did after she made a claim on her legal expenses insurance policy in February 2020.

What happened

Ms A was injured following an assault at work in June 2009. She made claims on her policy but following an assessment of their prospects of success by panel solicitors cover was withdrawn in 2012. Ms A continued to pursue the claims and contacted DAS again in February 2020. I understand that followed a successful judicial review challenge to a decision of the Criminal Injuries Compensation Authority.

DAS requested information from Ms A which she provided in early April. She also set out reasonable adjustments she required because of her disabilities. However, it doesn't appear DAS fully considered that information and policy coverage wasn't confirmed until June 2020 when panel solicitors were appointed. DAS issued a final response to the complaint Ms A made in August. It acknowledged it could have taken action earlier and offered £250 to recognise the inconvenience its delays had caused.

Following Ms A's complaint to us DAS provided consent for us to consider the matter (as it had been referred more than six months after its final response was issued). It also acknowledged additional failings as it hadn't made reasonable adjustments to enable Ms A to access its final response and there had been a delay in providing information the panel firm asked for about the case. It offered £500 in total to recognise the impact of this on Ms A.

Our investigator agreed there were failings in the customer service DAS provided but thought the £500 it had now offered fairly recognised the impact on Ms A of this.

Ms A didn't agree. In summary she said:

- Her complaint had been made in time as she hadn't received the final response DAS sent in August 2020. And DAS hadn't provided her with information about the panel solicitors who had been appointed to act or updated her on what the current position with her claim was.
- Compensation should apply for the whole of the period from February 2020 when she made her claim until 30 November 2022 (the deadline she'd set for contact to be made by DAS). A figure of £1440 would be appropriate for this period plus £2000 for discriminatory and abusive conduct contrary to the Equality Act 2010 and the Human Rights Act 1998.

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 DAS has a responsibility to handle claims promptly and fairly. It shouldn't reject a claim unreasonably.

Ms A has expressed concern about the original decline of her claim in 2012. However, our investigator explained those aren't matters we can consider because they've been referred to us too late. So that isn't something I'm looking at in this decision. What I'm considering is what happened after Ms A contacted DAS to make a fresh claim in February 2020.

However, I'm only doing so up to and including the point at which DAS issued a final response to the complaint Ms A made in August 2020. Ms A may well have further concerns about what happened after this but those would need to form part of a separate complaint which it would be for DAS to consider in the first instance.

Turning to what happened after the claim was made in February 2020 I don't think it's in dispute DAS didn't handle this as it should. Ms A provided information in support of her claim in April but DAS doesn't appear to have properly considered this. DAS also accepted it didn't make reasonable adjustments to ensure Ms A could access the final response it sent and there was also a delay in passing on information once panel solicitors had been appointed.

Ms A believes the failings were to DAS's benefit and designed to save it money. I haven't seen other evidence to support that but, in any case, the key point is DAS got things wrong. So, in line with our normal approach, I've moved on to consider how that's impacted Ms A and what DAS needs to do to put things right. In doing so I've taken into account the Equality Act 2010 given that it's relevant law – but I've ultimately decided this complaint based on what's fair and reasonable in all of the circumstances.

I think if DAS had acted as it should it's likely the claim would have been referred to panel solicitors earlier than it actually was. And while the delay here is over a relatively short period I do accept the impact of that on Ms A is likely to be greater given her disabilities and her understandable concern about the underlying legal case. I think it will have been both frustrating and distressing for her that DAS didn't then make the necessary adjustments to enable her to access its final response; Ms A says she didn't even receive that letter until much later.

I've considered the compensation figures Ms A has put forward. But her calculation appears to take into account events that relate to her 2012 claim and things that happened after DAS issued its August 2020 final response. Those are outside of the scope of this complaint. Taking everything into account, in particular the points in the previous paragraph about the impact on Mrs A, I think the £500 DAS has now offered is an appropriate amount to recognise the distress and inconvenience she was caused by what it got wrong in this case.

Ms A has also argued her complaint was made in time because she didn't receive the final response. However, the six month 'clock' for a referral to be made is started when a valid final response is sent. Not receiving the response is something we could potentially consider as an exceptional reason for not meeting the time limit. But that isn't something I need to consider in this case because DAS agreed we could look at the complaint despite it being referred out of time.

Finally, I appreciate in her last contact with us Ms A was unclear about the current position with her claim and said information she'd requested hadn't been provided to her. I can also see our investigator previously asked DAS to contact Ms A and ensure matters were now moving forward as they should. If there are outstanding issues here I'd encourage DAS to ensure Ms A is clear about the current position and what the next steps with this claim are. And if she's unhappy with actions DAS has taken since the August 2020 final response those are matters she can raise as part of a fresh complaint.

My final decision

I've decided to uphold this complaint. DAS Legal Expenses Insurance Company Limited will need to put things right by paying Ms A £500.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms A to accept or reject my decision before 26 May 2023.

James Park
Ombudsman