

## **The complaint**

Mr W is unhappy with what Royal & Sun Alliance Insurance Limited did after he made a claim on his legal expenses insurance policy.

## **What happened**

In October 2021 Mr W made a claim on his policy in relation to noise issues at his property. It's a requirement of the policy that any claim enjoys reasonable prospects of success. RSA asked panel solicitors to consider whether that was the case on 21 January 2022. However, it also said it would only pay one seventh of the cost of any legal claim because others were affected by the same issue.

A complaint about that (and delay in the initial assessment of the claim) has already been considered by our service. Following that in April 2022 RSA agreed to consider the claim on a full funding basis and pay compensation for the delay. However, prior to that happening the panel firm queried RSA's position on funding and Mr W said he was unhappy with the time taken to progress the claim. He asked RSA to appoint a different firm.

RSA clarified information on funding with the panel firm and sought updates from it on progress. It provided a positive assessment on the claim's prospects of success on 21 April. And following our previous involvement RSA confirmed it would fund the claim in full. However, as Mr W remained unhappy with the panel firm it agreed to appoint an alternative firm at the start of May. Matters have progressed with that firm with a positive counsel's opinion on the claim subsequently being obtained.

Our investigator agreed there had been some delays in the claim being progressed in this period which could have been avoided if RSA hadn't incorrectly sought to limit funding for the claim. He also thought there had been some avoidable delay in RSA considering Mr W's request for a different panel firm to progress matters. He thought it should pay £100 in recognition of the distress and inconvenience that caused him.

RSA didn't respond. Mr W didn't agree. He thought the panel firm were acting as agents of RSA so it was responsible for any failings on their part. And it had taken eight months from the claim being submitted until solicitors were appointed to act for him. He said RSA hadn't taken proper action to progress matters during this period and didn't act to find him an alternative firm when he requested this. 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.

First, I appreciate Mr W thinks RSA is responsible for the actions of the solicitors who were carrying out the prospects assessment. And so any failures on their part are something we can consider. But as our investigator has explained that isn't the case. We can only consider

the covered activities set out in our rules (the Dispute Resolution Rules or DISP). Those activities include regulated activities. And “*carrying out a contract of insurance*” is a regulated activity. That’s why we can consider what RSA did here.

But the actions of the solicitors acting in their legal capacity aren’t a regulated activity and don’t fall within any of the other covered activities contained in our rules. So that isn’t something we can look at. The solicitors are independent professionals with their own regulator and complaints procedures; I understand Mr W has raised his concerns about the actions of the solicitors with the relevant body.

What we can consider is whether there have been any failings on the part of RSA including whether it acted appropriately once Mr W brought his concerns about the actions of the panel firm to its attention. But I’m not considering in this decision issues raised as part of Mr W’s previous complaint to us. So I’m not looking at the initial delay in assessing the claim or RSA’s decision to limit funding for this. What I’m considering are matters which took place after RSA issued its final response on the previous complaint (January 2022) and before it issued a further final response at the start of September 2022.

I can see the matter was referred to the panel solicitors for assessment on 21 January 2022. RSA followed that up the following month and was advised the solicitors were waiting for information from Mr W. There was then discussion between the panel firm and RSA about how costs would be apportioned. As that related to RSA’s initial (and incorrect) decision to only pay one seventh of the costs of any legal claim I think it’s reasonable to say if it hadn’t got that wrong this discussion could have been avoided.

On 22 March Mr W contacted RSA and said he was unhappy with the panel firm and was advised an alternative firm could potentially be instructed. RSA did that at the start of May. I think it was reasonable of RSA to initially try and find out why relations between Mr W and the panel firm had broken down and see if these could be resolved. But I don’t think it fully understood the issues Mr W was raising; it told him a number of times it couldn’t investigate the concerns he was raising about the panel firm despite Mr W making clear what he wanted was for an alternative firm to be assigned to his claim.

I don’t think there was any delay for which RSA was responsible in the claim then being progressed; the new firm advised counsel’s opinion should be sought and RSA agreed promptly. Counsel subsequently concluded Mr W’s claim did have reasonable prospects of success and RSA authorised funding for it to progress.

But I appreciate the issues I’ve identified did cause some overall delay to the progress of this claim and that will have caused Mr W avoidable distress and inconvenience at what was already a difficult time. However, although it did take some months for cover to be confirmed only a relatively small part of that period relates to what RSA got wrong. Taking all of that into account I think the £100 our investigator recommended is appropriate in this case.

Mr W has also raised concerns about a form RSA asked him to sign so compensation could be paid in relation to his previous complaint. I understand he was concerned that would prevent him from raising concerns about other issues. I don’t think that’s something I’m able to consider because it relates to complaint handling. That isn’t in itself a regulated (or otherwise covered activity) and isn’t something I can consider in isolation from the original issue complained about.

In any event RSA appears to have taken what appear to be reasonable steps in response to Mr W’s concerns as it provided an acceptance form which said the compensation related to solely to the previous complaint we’d dealt with. And while I appreciate RSA does appear to

have become confused about what concerns Mr W was raising in a response in June 2022 that didn't prevent him pursuing his current complaint with it or our service.

### **My final decision**

I've decided to uphold this complaint. Royal & Sun Alliance Insurance Limited will need to put things right by paying Mr W £100. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 1 May 2023.

James Park  
**Ombudsman**