

The complaint

Mr K complains that One Insurance Limited rejected a claim on his legal expenses insurance policy.

Where I refer to One Insurance Limited, this includes its agents and claims handlers acting on its behalf.

What happened

Mr K made a claim on his policy to cover his legal costs relating to a claim for nuisance and trespass against his neighbour, but One Insurance said there was no cover for disputes with neighbours.

When Mr K complained, One Insurance maintained its position so he referred the complaint to this Service. Our investigator said it wasn't fair for One Insurance to decline the claim as it wasn't clear in the policy terms that disputes with neighbours were not covered.

One Insurance disagrees and has requested an ombudsman's decision. It says the policy wording clearly lists disputes with neighbours as an example of a non-claimable event.

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 industry rules and guidance say insurers must deal with claims promptly and fairly; provide reasonable guidance to help a policyholder make a claim and appropriate information on its progress; and not unreasonably reject a claim. They should settle claims promptly once settlement terms are agreed. The policy wording should be clear, fair and not misleading.

The policy includes cover for property disputes. The relevant term says:

"We will pay costs for any dispute relating to events causing disruption to the quiet enjoyment of your home, arising from nuisance or the trespass of third parties. You must be either the homeowner or rent the property."

Mr K's claim concerns trespass and nuisance so it's a type of claim that is covered unless One Insurance can show there's an exclusion that applies. One Insurance says that is the case, because the dispute is with Mr K's neighbour and neighbour disputes are excluded.

The policy has some general exclusions that apply to all claims and some specific exclusions that apply to property disputes but these don't include anything about neighbour disputes.

One Insurance has referred to something in the policy document that says

“Examples of Non Claimable Events:

- You were involved in a dispute with your neighbour and require legal representation...”*

As I've said, this isn't included in the lists of exclusions. And this is in a section at the beginning of the document, before the 'Terms and Conditions'. So I don't think it forms part of the terms and conditions.

If this exclusion were to apply it would mean that while the policy provides cover for this type of dispute, it then effectively excludes most of them – trespass and nuisance disputes will typically involve a neighbour. If these claims will never be covered that's a significant term and it's unusual. So it should be brought to the consumer's attention. But this is not listed in any of the exclusions, nor is it mentioned in the summary of cover set out in Insurance Product Information Document (IPID). I don't think it's clear that these claims are excluded when that's set out not in the list of exclusions or the IPID.

In these circumstances it would not be fair to say Mr K's claim is excluded due to it involving a neighbour. So One Insurance should not reject his claim on that basis.

There may be policy terms or exclusions that do apply and so One Insurance will need to assess the claim in line with the remaining terms.

My final decision

I uphold the complaint and direct One Insurance Limited to reconsider the claim in line with the remaining policy terms.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 25 October 2023.

Peter Whiteley
Ombudsman