

The complaint

Mr H's complaint is about a claim he made on his Royal & Sun Alliance Insurance Limited ('RSA') legal expenses insurance policy.

Mr H says RSA were wrong to withdraw funding of his claim part way through litigation.

All references to RSA include their claims handlers.

What happened

Mr H's complaint concerns a decision by RSA to withdraw funding of an appeal relating to the revocation of his firearms license part way through the litigation.

The details of this complaint are well known to both parties, so I won't repeat them here at any length save to say that RSA took a decision to decline to cover Mr H's claim any further after three firms of Solicitors they appointed, at his request, said they weren't prepared to act for him any longer. RSA said that this breached their policy terms and that the costs incurred to date had made the claim disproportionate to pursue in any event, irrespective of a favourable outcome.

Mr H made very considerable detailed submissions in support of his complaint. Our investigator considered those but determined that his complaint shouldn't be upheld, and that RSA were entitled to rely on their policy terms in declining to cover his claim any further. Mr H didn't agree so the matter has been referred to me to determine.

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.

Having done so, I won't be upholding Mr H's complaint against RSA. I've explained why below.

Before doing so, I wish to acknowledge the considerable submissions Mr H has made in support of his complaint both prior to the investigator's view and after she issued it. In this decision I won't be commenting on all the matters he's raised. That's not intended to be disrespectful but rather represents the informal nature of the Financial Ombudsman Service. In this decision I'll be focussing on the crux of Mr H's complaint- namely RSA's decision to stop funding his claim and whether they were entitled to do this under the policy terms.

The starting point is the policy terms. They don't cover:

"Professional Fees incurred: g) if You withdraw instructions from the Authorised Professional, fail to respond to the Authorised Professional, withdraw from the Legal Proceedings or the Authorised Professional refuses to continue to act for You"

In May 2022 a firm instructed by Mr H and funded by RSA said they weren't prepared to act

for Mr H any longer (Firm A). The Solicitor instructed said:

"It wasn't an easy decision, indeed its highly exceptional for me to withdraw from a case.

However, I don't feel I can continue to effectively assist (Mr H), partly due to me not being able to devote the time required to (Mr H's) file as a result of my extremely heavy workload at present, and also in part due to (Mr H) and I not entirely seeing eye to eye on how to approach the preparation of his case. It was apparent that he was starting to lose confidence in me and so I considered it was better to withdraw now rather than waiting until a later and potentially far more critical stage of the case, which might have caused far more disruption for (Mr H), as well as duplication of work and therefore costs."

Mr H then asked to appoint a different Solicitor (Firm B). By July 2022 that Solicitor said:

"(Mr H) does not trust me to deal with the matter for him" and "I cannot continue to act for him. I have notified the Court that I am no longer instructed."

Mr H then chose a third firm of Solicitors to act for him (Firm C). By December 2022 Firm C said that they also weren't prepared to act for Mr H. The Solicitor wrote to Mr H to explain this and said:

"You do not have faith in myself, or in Counsel instructed by me.

You have imposed conditions upon the way in which I am to deal with your case including demanding that all correspondence and communications by solicitors with third parties including the Court, Respondent, Counsel and medical practitioners are approved and subject to amendment / editorial control by you. This is highly unusual, and the level of editorial control is such that it has caused me to question whether I am acting with independence.

Solicitors ought to be able to act independently. SRA Principle 3 confirms this. The demands and restrictions placed upon me by you conflict directly with my ability to meet my professional obligations in this case. Taking into account all reasonable adjustments in respect of your disability, I can no longer act with independence or progress the case effectively or properly."

It was at this point that RSA said they were no longer prepared to fund Mr H's claim. They pointed out that almost £36,000 in costs had been incurred and although the claim had reasonable prospects of success, the claim itself had become disproportionate to pursue. In declining, RSA relied on the term I've quoted above. They also said they were entitled to turn down funding on reliance of this term after Firms A and B said they were no longer prepared to act for Mr H but did their best to accommodate him by funding Firm C, given his particular needs and circumstances up to that point.

I've considered the position RSA have taken in relation to the exclusion I've quoted above against the reasons given by the Solicitors to stop acting for Mr H and I'm satisfied that they were entitled to withdraw cover when they did. The term they've relied on entitled them to do this sooner, so I think it was more than reasonable that they agreed to fund three firms of Solicitors who all cited similar reasons for declining to act. Because of this I don't agree that RSA treated Mr H unfairly. In reaching this conclusion I haven't considered Mr H's complaints about the Solicitors he instructed as that's not within my remit. If he remains unhappy with them, he can complaint to them directly and then to The Legal Ombudsman.

RSA have also relied on other policy terms to decline funding Mr H's claim any further, but as I've determined that it was fair for them to rely on this particular exclusion, I haven't

considered those because it makes no difference to the outcome of Mr H's complaint.

My final decision

For the reasons set out above, I don't uphold Mr H's complaint against Royal & Sun Alliance Insurance Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 22 April 2024.

Lale Hussein-Venn
Ombudsman