

## **The complaint**

Mrs H's complaint is about the handling of a claim she made on her DAS Legal Expenses Insurance Company Limited ('DAS') legal expenses insurance policy.

Mrs H says that the way in which her claim was handled had a life changing impact on her and that DAS' offer of compensation doesn't account for this.

## **What happened**

Mrs H made a claim on her DAS legal expenses insurance policy for cover to pursue a claim in medical negligence. DAS appointed a firm of Solicitors to deal with that claim but after a delay, the firm said they had a conflict of interest and couldn't act for Mrs H.

DAS then looked to appoint alternative Solicitors for Mrs H, but they encountered difficulties in doing so. Some firms discovered they also had conflicts of interest whilst others weren't prepared to take on the claim because it was felt there wasn't enough time to prepare the work required. DAS asked Mrs H whether she was able to identify a firm of Solicitors who would help her. Eventually a suitable firm was identified, and DAS appointed them accordingly.

The subject of this particular complaint is the problems Mrs H said she encountered during this process. She said that DAS delayed dealing with her claim to start with, that she had to continually chase them, that she was told to stop shouting during a phone call with DAS when she was not shouting, that there were errors contained in DAS' responses to her and that DAS didn't call her back when they had agreed to. Mrs H is also unhappy that DAS didn't appoint a suitable firm of Solicitors to start with and that they put her to task to find someone suitable herself. She feels that taken together DAS' conduct had a life changing impact on her. She's provided detailed submissions about the stress this caused her given her underlying conditions and the fact that she was already experiencing considerable distress due to the underlying dispute and her worry about being adequately represented in it.

DAS considered Mrs H's complaint and concluded it should be upheld in part. They accepted that the delay in appointing the initial firm was unacceptable recognised that what was said to her during a telephone call about shouting was misplaced. In addition, DAS recognised the stress all of this would have caused Mrs H due to her underlying condition. As a result, they offered her £300 in compensation. They also made clear that they couldn't be held responsible for the actions of the firm they'd appointed as they were separately regulated.

Unhappy Mrs H referred her complaint to the Financial Ombudsman Service. Our investigator considered her complaint and concluded it should not be upheld. Mrs H doesn't agree so the matter has been passed 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 Mrs H's complaint. I'll explain why.

Before doing so I want to acknowledge Mrs H's strength of feeling about the matters she's complaining about and her circumstances more generally. I don't doubt the strain her underlying claim has had on her as well as the difficulty DAS encountered in appointing a firm that was prepared to act for her. Whilst I understand why Mrs H feels that she's not responsible for this, I have to look at whether DAS are and if so what the impact of their specific actions were in this complaint.

It's not in dispute that there was a delay on DAS' part in appointing the first firm. But whilst I understand Mrs H's claim was being litigated, the delay on its own was not considerable- it was one week longer than DAS' service standards allowed for. The problem that followed was a further delay in the firm DAS appointed to tell them they couldn't act for Mrs H due to a conflict of interest. This isn't however something DAS is responsible for. DAS don't have access to any records that would confirm this, and conflict of interest checks are down to individual firms of Solicitors to carry out. So, all that I can say that has gone wrong here is the delay of one week in DAS appointing the firm. On its own I don't think that is a considerable delay. So, when assessing the impact of this I've looked at this in isolation rather than as a result of the firm of Solicitors taking further time to decline to act.

Turning then to the appointment of other firms; I can see that DAS did try to appoint other firms for Mrs H but unsuccessfully. Given their failure to do so wasn't down to them, but rather the firms who were refusing to take on the claim, I can't say DAS did anything wrong here. Equally I don't agree that DAS did something wrong by giving Mrs H the opportunity to source her own Solicitor in the circumstances. I know that Mrs H said this caused her additional stress, but given DAS did what they could to source a suitable firm at short notice and Mrs H was expressing ongoing concern and worry about the lack of representation, it was sensible for DAS to allow her the opportunity to choose her own Solicitor at that point.

DAS accept that their adviser shouldn't have asked Mrs H to stop shouting when she spoke to them and that she wasn't shouting, so the request was unfounded, and no doubt caused offence. Mrs H says this led to her becoming so upset by this, she wasn't able to enjoy a theatre trip she'd booked tickets for, for which DAS is responsible. I accept that DAS did something wrong when the adviser made this comment to Mrs H and that this would have caused her a great deal of upset. But I can't say that they should be responsible for the cost of her theatre tickets themselves. It's clear from what Mrs H has said that she was physically and emotionally unwell and that the underlying dispute and difficulties finding representation had already had a considerable impact on her. I can't say with any certainty that this call would necessarily have made the difference between Mrs H not attending the theatre on the date she has identified. That said, I agree that DAS should compensate her for the impact this call had on her to the extent that it caused her stress, as well as the impact of the one-week delay in appointing the first firm. DAS have offered £300 in respect of this which is more than we would award in ordinary circumstances for these kinds of failings. But I think it takes into account the impact these issues would have had given Mrs H's existing difficulties. So, I think the amount they've offered is reasonable and that they don't need to offer any more.

I know Mrs H is also unhappy that she feels she constantly had to chase DAS, that a scheduled phone call was not returned and that there were typographical errors in their response to her. I agree that all of these things would have been frustrating and caused her upset in her circumstances. But for the reasons I've mentioned I don't think that the time DAS took to try to source an alternative Solicitor for her was unreasonable- this wasn't something they could control, and the outcome of their enquiries wasn't something they were

responsible for. So, I don't think Mrs H chasing DAS made any difference here. That then leaves a scheduled phone call not being returned and errors Mrs H has referred to in a letter to her from DAS. I agree that these are not ideal but even if I were to make a finding that DAS did something wrong here, I would still be finding that the global offer of £300 made by DAS is adequate compensation for these problems too. As I have said, the amount is more than we would usually award for the earlier failings, so I think this sum does also extend to covering the additional problems too in Mrs H's specific circumstances.

Finally, Mrs H has asked why she should be held accountable for various things like sourcing her own Solicitor as well as the impact this has had on her. I want to make clear that our role isn't to punish businesses where things have gone wrong but rather to direct them to put things right. In this decision I've identified where there have been failings, but I take the view that DAS have done enough to put things right. I know that Mrs H does not agree but I hope I've provided her with a thorough explanation of why I won't be upholding her complaint.

### **My final decision**

For the reasons set out above, I don't uphold Mrs H's complaint against DAS Legal Expenses Insurance Company Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 29 May 2024.

Lale Hussein-Venn  
**Ombudsman**