

The complaint

Miss H and Mr S are unhappy with what Admiral Insurance (Gibraltar) Limited did after Mr S sought to claim on the legal expenses section of their home insurance policy.

What happened

Miss H and Mr S have home insurance with Admiral. Their policy includes legal expenses cover which is underwritten by a different insurer. Mr S had an accident in July 2022 and wanted to bring a claim against the local authority he thought was responsible for that. He approached a 'no win no fee' solicitor. On 4 January 2023 he told them he had legal expenses cover and provided some policy information. The solicitors wrote to Admiral that day and asked whether it would cover his costs. They asked for a response within 21 days.

The following day Mr S signed a Conditional Fee Agreement (CFA) with the solicitors and subsequently took out an After the Event (ATE) insurance policy through them. As no response had been received from Admiral the solicitors sent further reminders. Mr S contacted Admiral himself in July which led to the matter being referred to the current insurer of his legal expenses policy.

At the end of July that insurer said it wasn't the cover provider at the time of the incident and the matter was referred to the correct business. Mr S asked if he could use his 'no win no fee' solicitor to progress the matter. The business advised on 14 August that wouldn't be possible prior to the issue of legal proceedings.

I understand Mr S then pursued matters with his own solicitors but is unhappy he'll have to pay the ATE premium and success fee from his settlement. He says that would have been avoided if Admiral had responded to the initial correspondence from his solicitors. At that point he had the option of cancelling the CFA and ATE policy and progressing the claim under his legal expenses policy.

In her most recent view our investigator said even if Admiral had acted more quickly Mr S wouldn't have been able to use his 'no win no fee' solicitors to pursue the claim because the policy didn't provide for their appointment unless it was necessary to start court proceedings (which wasn't the case here). And while Mr S said he'd have cancelled the CFA if Admiral had provided a quicker response, even if it had, she didn't think he'd have had time to do that within the 14 day cancellation period the CFA allowed.

Mr S didn't agree. He said after his claim had been passed to the correct business it took from 8 August 2023 until 14 August 2023 for them to confirm they wouldn't be appointing his solicitors under the terms of his policy. So if that timeframe applied following his contact with Admiral he would have had time to cancel the CFA and allow the legal expenses insurer to appoint a panel firm. 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.

It's not in dispute Admiral got things wrong here. In its final response it agreed it hadn't responded to the letters Mr S's solicitors sent. And that when Mr S contacted it himself it referred his claim to the wrong legal expenses insurer. So I think the question is whether, and if so how, Mr S lost out as a result of that. And in particular whether it's as a result of what Admiral got wrong he has to pay the ATE premium and his solicitors success fee. I don't think it is for a number of reasons.

First, I'm not clear why his solicitors decided to approach Admiral. From the email correspondence I've seen Mr S provided them with policy information including the Insurance Product Information Document (IPID) for his legal expenses policy. Although that has Admiral's branding on it, the IPID clearly references the separate insurer of the legal expenses policy and gives their name and FCA registration number. So I think it should have been apparent to Mr S's professional representatives that Admiral weren't the correct business to approach in relation to his claim. Mr S himself said *"admittedly my solicitors could have done better, by simply picking up the phone as I did to get to the bottom of it"*.

That suggests to me there isn't a causal link between what Admiral got wrong and the loss Mr S is claiming. In any event, even if Admiral had responded more quickly, I don't think it likely Mr S would have been able to cancel the CFA he'd entered into. That says where an insurer agrees to appoint the solicitors acting under the agreement *"we will agree to cancel the CFA"*. But that doesn't apply here because the insurer of the legal expenses policy didn't agree to appoint Mr S's solicitors as legal proceedings weren't necessary. And the position on that would have been the same even if they had been approached earlier.

I appreciate the CFA also says *"you have the right to cancel this contract within 14 days without giving any reason."* Mr S says if Admiral had acted correctly he'd have been able to cancel within that timeframe. He says once the claim was referred to the correct legal expenses insurer it told him it wouldn't be appointing his solicitors six days later.

I don't think he's right about that. The claim was referred to the correct insurer on 31 July 2023. Having carried out initial checks they passed it for assessment by a panel firm on 8 August. Following contact with that firm about appointing his own solicitor the insurer told Mr S on 14 August it wouldn't agree to that. That timeframe alone covers 14 days. And I don't think it's reasonable to expect Admiral to have made an immediate referral; it would always have needed time to review matters and confirm Mr S's policy did include legal expense cover, and who the insurer of that was, before making a referral.

That should of course have happened much sooner than it did. But Mr S signed the CFA the day after his solicitors contacted Admiral (without waiting for further information on the cover his policy offered). And by doing so he'd started the 'clock' running on his right to cancel. I don't think it likely that, even if Admiral had acted more quickly, Mr S would have obtained information which would have put him in a position to cancel within 14 days of entering into the CFA. As a result I think he'd always have needed to continue with his 'no win no fee' solicitors and incur the cost of the ATE premium and their success fee.

I do accept it will have been frustrating for Mr S that Admiral didn't respond earlier and that meant he then had to make unnecessary calls to resolve matters. Admiral has also accepted it should have dealt with his complaint earlier. I accept all that will have caused inconvenience to Mr S. But I think the total figure of £300 Admiral has offered (and which I understand it's already paid) does enough to recognise the impact of that on him.

My final decision

I've decided not to uphold this complaint. Under the rules of the Financial Ombudsman

Service, I'm required to ask Miss H and Mr S to accept or reject my decision before 23 May 2024.

James Park
Ombudsman