

The complaint

Miss P complains about Royal & Sun Alliance Insurance Limited's (RSA) handling of a claim she made on a legal expenses insurance policy.

Where I refer to RSA within this decision, this should be taken to include its agents and representatives acting on its behalf.

What happened

Miss P holds a legal expenses insurance policy with RSA. She's seeking to pursue a claim for professional negligence on this policy. RSA has previously declined any further cover for her claim as legal representatives had concluded Miss P's claim didn't enjoy reasonable prospects of success.

Miss P's previously complained about RSA's handling of the claim, and received a final decision from our service in relation to those matters. That final decision addressed RSA's assessment that Miss P's claim didn't enjoy reasonable prospects of success. In summary, the ombudsman concluded RSA's determination to have been reasonable based on the evidence available.

Miss P has now made a new complaint to RSA. She said that additional evidence she'd provided for the solicitors to revisit their assessment hadn't been properly considered. She was also unhappy that questions she'd put to RSA for the solicitors to answer hadn't been responded to.

When RSA rejected the complaint, Miss P referred it to our service. Our investigator didn't think RSA had done anything wrong. Miss P disagreed and asked for an ombudsman's 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.

I'm aware how strongly Miss P feels about her complaint, and her legal claim. She's made a number of points in her correspondence with our service. While I may not comment on all of these within my decision, I have considered everything she's raised, but need to focus my decision on the matters which are relevant to the complaint and which fall within the remit of our service.

Fundamentally, the complaint arises because Miss P continues to disagree with the assessment made by the solicitors appointed by RSA that her claim doesn't enjoy reasonable prospects of success – that's to say that there's a greater than 50% chance she would be successful if the matter went to court. I don't intend to repeat the reasons why this conclusion was reached as it has already been considered in a previous final decision. I'll only be taking into account the correspondence and information provided by Miss P which is part of her new complaint.

Miss P's correspondence with RSA set out a number of questions about the case and provided what she considered to be new evidence which meant the claim should be considered to have reasonable prospects of success.

I can see that RSA forwarded these questions onto the firm of solicitors who'd completed the previous assessment. They responded saying that there was nothing material in the further correspondence from Miss P and didn't intend to send the further information to the barrister who'd previously assessed Miss P's claim and concluded the claim didn't enjoy reasonable prospects of success.

Our service's position in cases such as this is generally that it's fair for an insurer to rely on a legal representative's advice, provided that advice is properly reasoned, prepared by a properly qualified person and doesn't include material factual errors which would be obvious to a layperson.

I'm satisfied, based on the information available to me, that RSA could reasonably rely on the response from the solicitors. Their response outlined that they didn't consider there was anything new or which required the original advice to be revisited. The response gave reasons for this, referring to the history of the various claims Miss P had made and the actions of various legal representatives. The assessment was prepared by a properly qualified person who was familiar with Miss P's claims. I haven't been made aware of any particular, significant factual errors in this further assessment.

So I think it was fair for RSA to maintain its position that no further cover would be provided for Miss P's claim. It had an explanation from the appointed solicitors that there was no reason to conclude her case enjoyed the required prospects of success given the previous advice and what had happened already.

I further note that Miss P has been told on a number of occasions, both during the course of the previous complaint and the current complaint, that if she disagrees with the conclusions reached about the prospects of success, she can refer to a solicitor of her choosing and obtain an assessment from them. The further advice repeats that point. RSA has said if Miss P did receive that advice, it would reconsider the matter, which is what we previously said we'd expect it to do. Our previous final decision made the same observation. Nothing has changed in that regard.

Turning to the questions asked by Miss P, where these didn't address the prospects of success or matters relating to the insurance cover and claim, then I'm satisfied RSA has acted fairly by not responding to these. Questions about the way the solicitors conducted the case or the legal claim itself are, I'm satisfied, for the solicitors to respond to. The solicitors, in their conduct of the case, are acting on behalf of Miss P and our service's jurisdiction doesn't extend to cover the solicitor's actions. I consider RSA acted reasonably by sending the questions to the solicitors but had no obligation to seek answers to all of these, or provide answers to Miss P to them (in the main because they weren't the proper people to answer those questions).

I'm also aware that Miss P alleges that various parties, including RSA, the solicitors and the other party to her legal claim, have colluded in order to deny her insurance cover and therefore prevent her from obtaining a legal remedy to her dispute. Miss P seems to refer to various failings on the part of the solicitors in the way they handled the claim in this regard, which as I've already said aren't in the remit of our service. I haven't seen anything to suggest RSA sought to influence the solicitors' decisions or sought to deny coverage for the claim in conjunction with other parties. I can't reasonably conclude that RSA has colluded with any other party to deny cover for Miss P's claim.

My final decision

I don't uphold Miss P's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss P to accept or reject my decision before 25 July 2024.

Ben Williams
Ombudsman