

The complaint

Ms W is unhappy that Royal & Sun Alliance Insurance Limited (RSA) withdrew funding for her Legal Expenses Insurance (LEI) claim despite funding it for four years, as it said it wasn't covered under the terms of the policy.

Ms W is represented. For ease of reference to things Ms W has said includes her representative's comments.

What happened

The background of the complaint is well known to both parties, so I've summarised the key points below:

- Ms W held an LEI policy with RSA which provided funding for covered legal disputes which arose during the policy term
- In 2019, Ms W told RSA of a claim she wanted to make after she was injured in a hit and run incident whilst she was a pedestrian
- RSA accepted the claim and agreed to provide funding for Ms W to appoint a solicitor to pursue a claim for compensation through the Motor Insurance Bureau's (MIB) Untraced Drivers' Agreement
- It subsequently appointed a non-panel solicitor chosen by Ms W who worked on Ms W's' claim for compensation
- In 2023, RSA wrote to Ms W's' solicitor to say that it had conducted a review of the file and it was withdrawing funding for Ms W's' claim
- It said Ms W's' claim didn't meet the definition of 'Legal proceedings' within the policy wording and therefore wasn't covered, so it wouldn't fund the claim any longer – but would honor the £12,000 inc. VAT that it had agreed to fund to date
- Ms W raised a complaint to RSA. She said her solicitor had made it clear from the outset, and as it progressed, that the claim was proceeding through the MIB
- So, she said it wasn't fair for RSA to now withdraw funding after four years because it failed to recognise this earlier – and that RSA's decision had caused distress and inconvenience, and was likely to cause financial loss
- RSA upheld Ms W's' complaint and offered her £250 compensation. It accepted that the claim shouldn't have been accepted and that its decision to withdraw funding would be disappointing. But it said ultimately, Ms W had the benefit of £12,000 of legal fees which, strictly, she wasn't entitled to
- Our investigator considered the complaint but didn't uphold it. She accepted RSA had made a mistake in covering the claim, but said Ms W had benefited from this and was satisfied that its decision to withdraw funding was reasonable
- Ms W rejected the investigator's view. She reiterated that the decision to withdraw funding was unfair and that she wouldn't be able to bring the case to a just conclusion without representation

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 terms of Ms W's' policy confirms that for 'Personal injury', it will cover, *"The cost of **you** taking **legal proceedings** against another person or organisation as a result of an event which causes your death or bodily injury."* And the policy defines 'Legal proceedings' as, *"Legal action in a civil **court** to protect **your** rights in a dispute."*

But the MIB isn't a court and the process of claiming under the Untraced Drivers' Agreement isn't something which is pursued in a civil court. So legal proceedings, as defined by the policy, aren't required to progress Ms W's claim so there is no cover for Ms W's' claim under the terms of the policy. So, RSA isn't incorrect to say that the claim isn't covered and withdraw funding as a result. But I've considered whether I think its decision to do so was fair.

I appreciate Ms W wants to continue her claim with legal representation; but pursuing a claim through the MIB's Untraced Drivers' Agreement doesn't require professional or legal representation. And I understand that the MIB has now accepted liability, so I can't see that her case will essentially collapse because of RSA withdrawing the funding when it did.

Additionally, I can't see that Ms W is liable, or now committed, to pay any further fees to the solicitor due to RSA's withdrawal of funding. So, if she doesn't wish to continue with the solicitor by funding the claim herself, I haven't seen any evidence that she will be at a financial loss because of this.

I have to also consider what should've happened here. And I'm mindful that had the claim been dealt with correctly from the outset, it would've been declined; and Ms W wouldn't have received any funding from the policy. So, I do consider that despite the funding now being withdrawn, Ms W is in a better position than she should've been, having received around £12,000 of funding for her claim that she wouldn't have otherwise received.

RSA offered Ms W £250 compensation within its final response for the disappointment of the funding being withdrawn due to its error. Ms W has since clarified with the investigator that this amount hasn't been paid. I accept that RSA's decision would've been very disappointing, but I'm also mindful Ms W has received £12,000 in funding towards her claim. So, I'm satisfied that £250 compensation is reasonable for the trouble and upset RSA's decision would've caused to her.

My final decision

Royal & Sun Alliance Insurance Limited has already made an offer to pay £250 to settle the complaint and I think this offer is fair in all the circumstances.

So, my decision is that Royal & Sun Alliance Insurance Limited should pay £250

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms W to accept or reject my decision before 8 October 2024.

Angela Casey
Ombudsman