

## **The complaint**

Ms D's complaint is about the refusal of a claim under her legal expenses insurance policy with SCOR UK Company Ltd.

SCOR is the underwriter of this policy, *i.e.* the insurer. Part of this complaint concerns the actions of the agents it uses to deal with claims and complaints on its behalf. As SCOR has accepted it is accountable for the actions of the agent, in my decision, any reference to SCOR includes the actions of the agents.

## **What happened**

In December 2023, Ms D contacted SCOR as she wanted to make a claim for legal expenses in relation to a dispute with her neighbour regarding a property boundary and trespass. The original trespass and interference with the boundary happened in 2015.

Ms D says she had originally contacted SCOR in 2015/16 to report the incident. She says it did not agree to cover the claim at the time and she was told to get her own legal advice, which she did. Ms D says she instructed a solicitor to write to her neighbour in 2016. The neighbour did not rectify the trespass and she did not do anything further about the issue until 2020 when she got advice from a solicitor who wrote to her neighbour again. The neighbour still did not rectify the issue. Ms D now wants to enforce the boundary. Ms D's current legal expenses insurer won't cover the matter, as the trespass happened before they provided the insurance, so Ms D submitted the claim to SCOR in late 2023.

SCOR says it has no record of any contact from Ms D in 2015 or 2016 and no record of a claim being made. It says she might have contacted its legal advice helpline instead of it to register a formal claim; and it would not refuse a claim over the phone on the first contact. SCOR says there is no reason that it would not have supported the claim in 2016, if it had been reported to it. However, SCOR says that in the absence of any evidence to support that Ms D made a claim in 2015/16, it does not agree that it is responsible for dealing with the claim now.

Ms D referred her complaint to us. One of our Investigator's looked into the matter. Initially she recommended the complaint be upheld but after considering further submissions from SCOR she changed her view and said it was not unfair or unreasonable of SCOR to reject the claim.

Ms D does not accept the Investigator's assessment. She says she should not have been left to resolve the matter without the support of a legal team and she has incurred significant costs. SCOR was wrong to refuse the claim in 2016 and again in 2023 and should have provided her with guidance and assistance.

Ms D has also sent us a copy of an email from her broker dated March 2016, which she says proves she followed the correct procedure and notified them of the claim first. She called the claim number provided by the broker, left her details and she was called back; a decision was made that her claim was not covered and she was told to seek legal advice. Ms D says her solicitor sent the letter to the neighbour a few weeks after the email from the broker with

the number to call to make a claim to SCOR. This supports her version of events, as she would not have instructed solicitors without checking with her insurer and following their instructions.

As the Investigator has not been able to resolve the complaint, it has been passed to me.

### **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.

SCOR has not provided legal expenses insurance to Ms D since at least February 2023. The policy that Ms D did hold previously with SCOR only provided cover for claims that were reported to it during the period of insurance and as soon as the insured first became aware of it:

*"Your policy cover*

*Following an Insured event, the insurer will pay legal costs & expenses ... up to the policy limits stated below subject to all of the following requirements being met...*

*The claim*

*a) always has reasonable prospects of success and  
b) is reported to us*

*i) during the period of insurance and  
ii) as soon as the insured first becomes aware of circumstances which could give rise to a claim."*

Terms such as this are not uncommon in legal expenses insurance and I don't think they are unfair or unreasonable.

Ms D says she did report the claim to SCOR within the period of insurance, and shortly after she was aware of it, in 2016. She says she spoke to SCOR on the phone and was told it would not cover the claim and she should get her own legal advice.

SCOR has no record of any claim and says that the call Ms D describes is not in line with its claims process. SCOR points out it has a duty to not keep personal data indefinitely, so it is unfair to penalise it for not keeping records from eight years ago.

While I have no particular reason to doubt Ms D's recollection, she has not been able to provide any independent evidence of this communication either. Ms D has provided a copy of an email from the broker giving her the number to contact SCOR's agents and the solicitor's letter to the neighbour in 2016. However, while I note the timing of the email and the letter, they do not by themselves prove that Ms D notified SCOR of the claim and that it assessed the claim and refused it.

There is some force to Ms D's argument that she would not have gone ahead with instructions to a solicitor without checking her insurance over. However, there is simply no convincing independent evidence that she made a claim to SCOR at the relevant time.

Given this, I cannot reasonably conclude that Ms D likely contacted SCOR in 2015/16 and notified it of the claim and therefore that it should agree to meet the claim now eight years later.

**My final decision**

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms D to accept or reject my decision before 4 November 2024.

Harriet McCarthy  
**Ombudsman**