

## **The complaint**

Mr S complains that U K Insurance Limited (“UKI”) has unfairly handled a legal expenses insurance (“LEI”) claim under a home insurance policy.

Any reference to Mr S or UKI includes respective agents or representatives.

## **What happened**

The background of this complaint will be well known between parties and has been detailed elsewhere at length by our Investigator. So, I’m going to provide a summary of events.

Mr S has several complaints with this Service that have been considered separately to this complaint. For the avoidance of doubt, this complaint concerns Mr S’s complaint about UKI’s actions between 22 November 2022 and its final response letter of 28 September 2023, unless specified.

The complaints regarding events that preceded this have been considered elsewhere so won’t be addressed within this final decision.

- In November 2020 Mr S made an LEI claim under a UKI home insurance policy. This concerned an employment dispute with a former employer.
- UKI handled the LEI claim. Several complaints came from this in the time that followed, and UKI issued various final response letters. These included disputes about the quality of advice given by panel solicitors, outstanding costs that Mr S said were never paid, amongst other issues.
- A further back and forth regarding UKI’s handling of the claim followed, including matters related to funding, delays and service. The subject of these disputes has been dealt with elsewhere under separate references. The last final response letter addressing these issues was sent on 21 November 2022. So, this complaint concerns the events and responses that followed this date.
- In late 2022 Company E (solicitors) instructed a barrister to give an opinion on the prospects and value of Mr S’s claim. Mr S raised concerns about Company E – including similar points to those he’d raised previously.
- In November 2022 Company E wrote to UKI saying it was preparing a bundle for a barrister. UKI said Company E had noted that a judge determined Mr S wasn’t disabled within a recent preliminary hearing. UKI said the brief provided to the barrister included all documents and was around 3000 pages in length.
- In February 2023 the barrister stated Mr S’ claim for constructive unfair dismissal had prospects of success, but his claim related to discrimination did not. They also determined the claim to have a value of around £20,000 with a reasonable settlement of £10,000. The barrister had commented on not having enough information related to shares to comment on this point and asked for most evidence.
- UKI said it spoke to Company E around this time saying it needed the barrister to comment on the value of the shares for the claim. UKI said in early March 2023

Company E had proposed a conference given – Mr S had disagreed with the advice. Company E also raised concerns about the remoteness of claiming for shares and said it would speak to the barrister about this.

- Following a disagreement between Mr S and the barrister/Company E this conference did not go ahead. Mr S had specific concerns that the matter had not progressed and that the barrister/Company E had not devised an agenda for the conference. Mr S felt the advice obtained was to allow UKI to withdraw cover, and he did not attend the conference as he felt there was a breach of trust and intention of bad faith.
- UKI said it was outside the remit of Company E or UKI to direct a barrister's agenda and stood by its actions. UKI said Mr S refusing to attend amounted to a lack of cooperation with the solicitors in line with the policy terms, so it withdrew from the claim. And it said Mr S needed to arrange a solicitor to represent him for the upcoming trial in April 2023.
- Mr S has described the impact of UKI withdrawing as severe causing him distress and anxiety. Mr S's relatives stepped in to support and represent him.
- In May 2023 Mr S raised concerns about Company E and the barrister it appointed, as he said they had failed to consider his schedule of loss. And he didn't believe previously involved solicitors should've been paid by UKI due to poor work. Mr S sought costs for a relative who had been representing him.
- In June 2023 Mr S wrote to UKI with a further complaint. UKI agreed to reinstate cover at this time but said its panel solicitors would no longer work for Mr S. Mr S has said he found it challenging to find representation as a result.
- In August 2023 Mr S told UKI he wanted Mr B (a barrister) to provide advice for the final hearing based on new evidence. UKI agreed to pay the initial fee. But following this Mr B stated he couldn't take the matter further as the judge on his case had made a decision about Mr S disability that meant he wouldn't take things further. Mr S told UKI in late August 2023 he no longer wished to work with Mr B as he disagreed with the advice.
- Following this, UKI issued its final response letter on 28 September 2023. This was detailed and covered the full history of the claim. UKI referenced previous complaints and commented on whether they could still be brought to this Service. Of the matters that were new and/or hadn't been addressed previously it said.
  - UKI said it made a mistake by saying it was suspending cover previously. And its options under the policy were either to agree cover was in place or withdraw cover. It said the intention had been an effort to not withdraw cover. And it said it should've warned Mr S previously prior to suspending the policy.
  - It disagreed any UKI or Company E handlers had acted in bad faith and said it had tried to assist as much as possible. It provided a timeframe that it said showed Company E handled things in a timely manner.
  - Mr S' representative was not legally qualified in employment law and UKI never agreed to any costs, so it wouldn't settle these.
  - Mr S complained that UKI's panel solicitors wouldn't act for him. UKI said the panel solicitors that previously had worked for Mr S were unwilling to act for him again due to the serious nature of the allegations he made about them. UKI agreed there was a conflict of interest which it indicated was not of the respective firms making, so it didn't uphold this point. UKI also said Mr S had acted in breach of the terms in places by dis-instructing a firm without telling UKI and the reason for doing so wasn't reasonable. UKI also referenced Mr S'

comments about struggling to find a trustworthy solicitor which was outside of its control and due to concerns of Mr S's own.

- UKI paid Mr S £1,000 in compensation for distress and inconvenience of the issues it accepted had gone wrong. And UKI said it was still prepared to cover the case dependent on Mr S obtaining legal representation and supportive advice confirming the costs to pursue the live case (at that time and excluding discrimination) were proportionate.
- One of our Investigators looked into what happened and didn't uphold the complaint, saying:

- *Suspension/withdrawing cover:* UKI should've been clearer in places as it has accepted. But she felt UKI's actions to put the claim on hold while a barrister's opinion was needed – instead of withdrawing cover altogether – was not as impactful as Mr S suggested.

UKI withdrew cover again around April 2023 due to a perception Mr S wasn't cooperating with solicitors and he'd been warned about breaching policy terms. She felt UKI's conclusion was fair as Mr S had requested the conference and it would've been an opportunity to discuss outstanding issues.

UKI acknowledged it failed to warn Mr S as it should've of its concerns about behaviour. But she didn't feel the warning would've been material as she felt it was most likely UKI would've still withdrawn cover. She was satisfied the £1,000 compensation it awarded for this mistake was fair and in excess of what she'd have recommended.

- *Mr S's representative's costs:* Mr S's policy made clear UKI would only cover costs of an appointed representative agreed with UKI. As no terms of appointment were ever agreed, and the individual is not a qualified professional in employment law, nor do they have the legal right to charge for legal advice, she was satisfied UKI fairly declined these costs.
- *Legal representative:* Mr S had raised concerns about several firms that had then determined they wouldn't act for him, or he'd asked them not to act for him. She said while she recognised Mr S had concerns, Mr S' concerns were beyond UKI's control. And overall, she felt UKI had done everything it reasonably could to provide representation for Mr S.
- *Next steps:* UKI's request for representation and positive prospects was reasonable and she wasn't going to direct it to do anything further.
- Mr S disagreed, and his representative provided a detailed response. In summary:
  - They requested all files the Service had received from UKI.
  - Mr S was entitled to legal representation under his policy. And this Service had failed to note breaches of contract on part of UKI and labelled this as a "mistake". He made a comparison of UKI setting fire to a customer's property and saying UKI would be liable for the consequences. He indicated that without proper representation Mr S was left without a successful claim for discrimination which would've been substantial. He also indicated this Service should make an award of over £400,000 in this regard.
  - UKI and the respective solicitors had sabotaged Mr S' claim for the tribunal and he was owed massive damages.
  - Mr S referenced a schedule of loss from 2022 which he asked the Investigator to study, saying it was relevant at the time Mr S' cover was

withdrawn. He said UKI deliberately mis-managed the situation.

- UKI acted unfairly by withdrawing cover ahead of a hearing – and this was particularly impactful given Mr S' disability which had not been considered.
  - Appointed firms had been negligent and this hadn't been recognised by this Service. He also raised detailed concerns about other solicitors that had been involved in the life of the claim and indicated UKI should take responsibility for their failings, mistakes, or inaction.
  - Mr S' representative had 40 years experience as a Chartered Accountant with business and legal experience. So given their involvement – which they deemed necessary – their costs should be paid.
  - This Service should comment on all aspects of the history of the claim that Mr S has highlighted, and to not do so could be treated as a cover up of fraud by the insurer and a breach of trust by this Service.
- Our Investigator responded, saying she'd considered all of Mr S's arguments, in summary:
    - She had considered Mr S's disability when assessing the complaint but didn't feel UKI had acted unfairly in regard to this.
    - The value of Mr S' claim didn't impact her view so this wasn't something she had detailed previously.
    - She had referred to the barrister's prospects assessment from February 2023 as it was key evidence even if Mr S disputed their findings.
    - She had already commented on Mr S being left without representation, and UKI refusing to pay Mr S's representative's costs so wouldn't go over these points again.
    - While UKI suspended the claim when it should've either continued or withdrawn cover – she was satisfied that without the further opinion it needed the matter wouldn't have proceeded. And had things gone without issue, UKI would've withdrawn cover instead of suspending cover. So, she didn't agree UKI needed to pay Mr S's losses he was seeking.
    - Any complaints about solicitors and respective legal advice would need to be referred to the Legal Ombudsman.
    - The Investigator also attached claim notes and policy book and explained the key material evidence she had relied upon when providing her assessment.

Mr S disagreed so the matter has been passed to me for an Ombudsman's 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.

Having done so, I'm not upholding this complaint.

When considering what's fair and reasonable in the circumstances I need to take into account relevant law and regulations, regulators' rules, guidance and standards, codes of practice and, where appropriate, what I consider to have been good industry practice at the time.

The nature of my role is that I must assess the evidence from an independent and impartial

perspective. That may mean at times I may sound matter of fact or dispassionate, but I want to be clear I mean no disrespect by this.

I also want to recognise Mr S's submissions are extensive. Within this decision I won't be responding in similar detail. This is a reflection of the informal nature of our Service. My role is to focus on what I consider the crux of the complaint to be which means I will only comment on those things I consider relevant to the decision I need to make. This may also mean I don't comment on everything Mr S has said but I can confirm I have read and considered everything provided by all parties.

I also want to acknowledge that Mr S has requested a copy of all documents provided by UKI to this Service. Our Investigator has engaged on this point with Mr S, and on several occasions explained that this Service is not required to provide all files received, only the evidence that we consider material that has been relied upon in reaching the decision. Having carefully considered this, I'm satisfied this has happened in this case.

Given the range of issues Mr S has raised, I've grouped concerns and I'll consider these in turn.

#### *Concerns about the advice given by appointed representatives*

UKI is entitled to rely on the legal advice it is provided with – unless that advice is obviously wrong. Mr S in this case has raised concerns about the barrister's advice from February 2023.

From what I've seen, their advice was a reasoned legal opinion from a qualified individual who had taken into account the evidence they were provided with.

So, I'm satisfied UKI acted reasonably in relying on their advice. And once Mr S raised concerns about the assessment, Company E and the barrister looked to discuss matters with him in a conference which he didn't attend. Without commenting on the quality of the advice given by the barrister, I'm satisfied UKI's actions in taking on board the legal opinion given was reasonable. So, as our Investigator has highlighted to Mr S elsewhere, any complaint he has about the quality of this advice will sit within his respective complaints to the Legal Ombudsman.

Mr S has raised other concerns about various appointed representatives. As above it is not my role to consider the quality of that advice as that is the role of the Legal Ombudsman. But he's given little to persuade me – other than his own opinions and references to complaints to those parties – on balance that any advice by those parties was given was obviously wrong and therefore UKI should've acted differently.

#### *Suspension/withdrawing cover*

UKI has been clear it does not have an ability to suspend cover under its policy and that its options under the policy terms are to either cover a claim or withdraw cover. UKI commented on this point saying that it acted outside of the terms by "suspending" cover when seeking a barrister's advice on the claim before proceeding. It said this was in an effort to not withdraw cover altogether and this barrister's advice would be necessary to understand the value of the claim and its prospects of success. UKI said it had considered Mr S's disability here when deciding to seek the barrister's advice instead of simply withdrawing cover – taking into account he had previously not accepting advice from multiple solicitor's firms.

From what I've seen, UKI does appear to have taken this step in an attempt to not withdraw cover altogether. And the step of obtaining the barrister's opinion appeared to be a

necessary one. But I recognise UKI's actions here fell outside of its policy terms and this has caused a degree of distress and inconvenience to Mr S.

UKI said in hindsight it had intended on alerting Mr S around this time that it could hold him in breach of policy terms for not accepting advice from multiple solicitor firms. But it failed to do this.

In April 2023 when Mr S refused to attend a conference with the barrister UKI interpreted this as non-compliance and sought to withdraw Mr S's cover. So, I've looked at the policy terms around this. Under its own section of conditions, Mr S' policy states "**You must fully co-operate with the *appointed representative* and with *us*.**" This makes it clear cooperation is a condition of the policy.

UKI has since described its actions of April 2023 as a mistake when withdrawing cover as it had failed to warn Mr S that a lack of compliance would lead to withdrawal of cover. It said however had it previously warned Mr S of his actions prior, it would stand by its withdrawal of cover. It said Mr S's reason for not attending the conference related to a lack of agenda being set – however UKI said Company E and the barrister had said an agenda wasn't necessary as it would use Mr S' own detailed submission as the subject. It also said this was made clear to Mr S.

Based on the claim notes I've seen – and that have been shared with Mr S – this point about the agenda was explained to Mr S.

So, I think UKI's conclusion that Mr S wasn't cooperating with the appointed representatives is a fair one in the circumstances. Mr S had raised concerns that Company E and the barrister had agreed to meet with him to discuss – I think his refusal to attend could reasonably be considered to be non-cooperative as UKI has said. This satisfies me that if UKI had given Mr S a warning previously this action to withdraw cover would've been reasonable.

UKI itself has said it shouldn't have taken this step at this time as it failed to give a warning earlier in the life of the claim – in 2022 – when it considered Mr S had refused to accept advice from multiple solicitor firms. This left Mr S without professional representation until June 2023 when cover was reinstated.

So, I've thought about the impact of the absence of the warning. I accept it's possible this would've altered events or Mr S's engagement with the relevant parties.

I recognise that the lack of warning may have led the withdrawal of cover at the time to come as a shock – particularly given the upcoming hearing and Mr S's disability. But given the events that surround it and Mr S's strength of feeling and concerns about so many solicitor firms that have been involved in the life of this claim, it strikes me to be less likely – on balance – that it would've changed anything in terms of his engagement with Company E and the barrister.

Mr S has been very clear he believes the impact of this withdrawal to be extremely significant both for his wellbeing (leaving him without representation ahead of a hearing) as well as the success of the claim overall. As I've outlined, I don't doubt the withdrawal may have come as a surprise and impacted Mr S's wellbeing during an already stressful time. And that it left him without representation for a period. But I'm not persuaded it has negatively impacted his claim to the extent he has suggested.

I recognise Mr S and his representative have given various reasons why they believe this has impacted the claim, including its total value (referencing a schedule of loss from 2022),

but their comments aren't supported by a qualified legal opinion that demonstrate the case has been impacted in the way Mr S has put forward in light of all the facts from the time the cover was withdrawn. So, this hasn't changed my mind.

I've thought about the £1,000 compensation UKI has awarded for the mistakes it made around the suspension and withdrawal of cover. And I'm satisfied in the circumstances this was a fair sum that takes account of Mr S's particular circumstances and disability when considering the impact of UKI's actions on him.

Mr S has also made specific allegations that UKI and other parties have acted in bad faith or intentionally sabotaged his claim. I've reviewed everything provided by both parties and while I've acknowledged above mistakes made by UKI, and I acknowledge Mr S may believe this was intentional, I'm not satisfied there's evidence to support this.

### *Mr S's representative costs*

Mr S has sought costs incurred following his withdrawal of cover. He put forward a relative who he's said acted as a professional advisor for him. UKI said it considered this individual's costs and experience but after concluding they were not legally qualified in the area of employment law, said it wouldn't pay these costs. UKI also noted that Mr S entered into a contract with the relative back in May 2020 prior to any discussion with UKI or the claim being accepted. It said the nature of the contract indicated Mr S would be paying the relative out of any settlement when the matters were resolved.

So, I've looked at the policy terms. Under the heading "Costs" this says:

*"• All properly incurred, reasonable and proportionate fees, expenses and disbursements charged by the **appointed representative** and agreed by **us**. Legal fees and disbursements will be assessed on the standard basis or in accordance with any fixed recoverable costs scheme, if applicable.*

*• The fees incurred by **your** opponent that **you** are ordered to pay by a **court** and any other fees **we** agree to in writing"*

The term appointed representative was defined in the policy as:

*"The preferred law firm, solicitor or other suitably qualified person appointed by **us** to represent **you** under this section of the policy."*

I've been given nothing by Mr S that shows the representative in this case was ever appointed by UKI as an appointed representative.

UKI has also said the individual is not suitably qualified and pointed to various rules that it says shows he is without a legal right to professionally charge for services of legal advice and representation in connection with a claim in an Employment Tribunal. I won't repeat all of the details here as they've been detailed elsewhere, but Mr S hasn't provided anything to show his chosen representative is suitably qualified.

Mr S highlighted insurance regulations that refer to an ability to rely on a lawyer or "...other person having such qualifications as may be necessary" to serve their interests. I think this is in line with the policy term that mentions an "other suitably qualified person".

So, while I recognise Mr S's representative may have an extensive career and that the policy may allow for costs related to a suitably qualified person, I'm not persuaded Mr S's representative meets this criteria of being a suitably qualified person to handle this particular

matter. I say this as he doesn't have the necessary qualifications that relate to employment law. As a result, I'm satisfied UKI's decision to not cover his costs is fair.

I also note Mr S has elsewhere mentioned another relative who represented him. For the same reasons that he does not appear qualified, nor was this ever agreed with UKI I would consider this also fairly declined by UKI.

### *Legal representatives*

Around July 2023 Mr S told UKI he was finding it challenging to obtain a solicitor he could trust to take on his case. This related to age and history of the case, as well him having concerns about any new solicitor having the necessary skills to deal with concerns about previous solicitor conduct.

UKI said it had agreed to cover "*reading in costs*" so that any prospective firm could fully review the case. And it has referenced being asked by Mr S to recommend solicitors. It said while it couldn't make recommendations it could advise of local firms and one of its agents provided a list of 12 in his area that had acted under this policy before. I think these are all reasonable steps taken by UKI to support Mr S.

Following this there was a back and forth between Mr S and UKI regarding prospective solicitors with Mr S raising concerns about what would happen if issues arose. At the end of July 2023 Mr S's representative asked UKI if any of its panel solicitors who had acted previously for him, would pick up the case again.

UKI confirmed its previously appointed firms wouldn't act again due to a conflict of interest – related to the previous concerns raised.

In late August 2023 UKI agreed to pay the initial advice for Mr B (the barrister), and Mr S said Mr B was not suitable as he disagreed with his advice. Again I think this shows UKI's attempt to support Mr S.

UKI has said it has tried to find Mr S legal representatives but his lack of trust with professionals has led to these difficulties – naming specifically Mr S's rejection of the legal advice provided by Mr B.

In this claim it's evident Mr B raised many concerns and complaints about many different legal representatives including barristers and solicitor firms. The panel solicitors' decision to not represent Mr S sits outside of the scope of what UKI can control, but UKI was in agreement there was a conflict. Taking into account the complaints previously raised, I think UKI's conclusion here is reasonable.

And given Mr S has been given details of various firms and UKI has agreed to reading in costs, I think it has provided him with sufficient support and help in seeking representation within its scope as an insurer.

As of its final response letter of 28 September 2023, UKI was clear that it would still be prepared to cover Mr S's claim if he could provide legal representation and supportive advice confirming costs to pursue the case (that excluded discrimination) were proportionate. I think its decision here to not withdraw cover taking into account Mr S's circumstances was fair and reasonable. And while I acknowledge Mr S has struggled to find a legal representative he considers suitable, I'm not satisfied this is due to the actions of UKI.

Taking everything into account, I'm satisfied that UKI made mistakes in places when handling this claim – which it has accepted. However, I do feel UKI has attempted to support



Mr S throughout the claim, and I don't hold it responsible for the issues Mr S has raised about respective legal advisors across the life of the claim I'm considering in this decision. For these reasons I'm satisfied the £1,000 compensation already paid by UKI fairly takes into account Mr S's circumstances and the impact of mistakes made by UKI. So, I'm not upholding this complaint nor directing it to do anything further.

### **My final decision**

For the above reasons, I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 27 February 2025.

Jack Baldry  
**Ombudsman**