

The complaint

Mr G's complaint is about DAS Legal Expenses Insurance Company Limited's handling of a claim under his legal expense insurance policy.

What happened

In November 2022, Mr G submitted a claim to DAS for cover in relation to proceedings he wanted to take against a local authority. The claim was rejected and Mr G brought a complaint to this service about that. One of my ombudsman colleagues considered the matter and in September 2023 recommended that DAS should obtain a barrister's opinion to assess if the dispute would be covered under the contract disputes section of the policy.

DAS agreed to this but no action was taken to get a barrister's opinion, so Mr G complained again in November 2023. DAS then appointed one of its panel solicitors to deal with the instructions to the barrister. Mr G was unhappy that a paralegal rather than a solicitor was dealing with his case and about further lack of communication. He complained again and asked for different panel solicitors to be appointed.

DAS responded to Mr G's complaint by way of a final response letter in January 2024. DAS said it is up to the solicitor firm who they allocate cases to but all paralegals would be supervised. However, it acknowledged the delay in appointing the panel solicitors in the first place and offered £150 compensation for this; and, as the panel solicitors had not instructed a barrister, DAS also agreed to instruct another firm.

Mr G remained unhappy with DAS's response, so referred his complaint to us.

After the complaint was raised with us, DAS acknowledged that there had been further delay since its final response letter in January 2024, as the instructions to the barrister had still not been prepared. It offered a further £350 compensation (so a total of £500) for the delays.

One of our Investigators looked into the matter. He acknowledged there were avoidable delays and the service provided by DAS had not been what Mr G was entitled to expect. However, the Investigator considered the £500 offered by DAS to be reasonable to reflect the trouble caused to Mr G.

Mr G does not accept the Investigator's assessment, so the matter has been passed to me.

Mr G says his claim is over two years old and it has not moved forward. Mr G says he has a potential financial loss of thousands of pounds (being the value of his legal claim) and the compensation should be increased to reflect this, as well as the time he has spent on the matter and the emotional stress caused to him.

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 is not in dispute that the service provided to Mr G from DAS so far has been well below what he was entitled to expect. DAS agreed in September 2023 to obtain a barrister's opinion on the claim he wanted to bring but this has still not been obtained.

There was a delay of several weeks before DAS took any action to instruct panel solicitors. Mr G was then unhappy with the fee earner dealing with his case. It is not for DAS to determine an individual fee earner to deal with a policyholder's case. DAS is entitled to trust that the firm appointed will allocate work to appropriately qualified and experienced fee earners within its practice and that it supervises its fee earning staff in accordance with its professional regulations. I do not therefore consider DAS did anything wrong in this regard. However, it agreed to appoint another firm in any case as no progress have yet been made to obtain the barrister's opinion. I think this was reasonable. However, that decision was taken in early 2024 but the opinion has still not been obtained. It is not clear exactly why. DAS is not responsible for the solicitor's actions but I think it could have done more to follow this up and resolve any issues in order that it could be obtained, especially given the previous delays.

So, having considered everything it seems to me that most of the time period since late 2023 is due to delays on DAS's part.

I appreciate that this will undoubtedly have caused frustration and inconvenience to Mr G. He says he has also potentially lost the opportunity make his claim, however, as yet it has not been established that Mr G has a valid claim under the policy and there is no evidence, as far as I am aware, that he has lost the opportunity to bring his legal claim solely as a result of the delay by DAS.

Having considered everything carefully, I consider the total compensation of £500 to be reasonable and in line with our usual awards.

My final decision

I uphold this complaint and require DAS Legal Expenses Insurance Company Limited to pay Mr G the £500 offered as compensation for the distress and inconvenience caused by its handling of his claim. (This is to include the £150 offered in January 2024, so if that has already been paid then DAS only now needs to pay the remaining £350.)

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 3 February 2025.

Harriet McCarthy
Ombudsman