

## **The complaint**

Mr and Mrs S' complaint is about an employment claim Mrs S made on their Acromas Insurance Company Limited ('Acromas') legal expenses insurance policy, which Acromas declined.

Mr and Mrs S say that Mrs S was treated unfairly and want Acromas to cover her claim.

In this decision all references to Acromas include their claims handlers.

## **What happened**

Mrs S made a claim on her Acromas legal expenses insurance policy for cover to pursue a claim against her former employer.

Acromas considered the claim and took the view that the event which gave rise to the claim happened before the policy was in place. So, they turned the claim down.

Mr and Mrs S' policy started to run on 9 January 2024. Acromas said that the problems she was having with her employer started before that date. Mr and Mrs S don't agree. They say that that Mrs S' claim for victimisation and discrimination was triggered following events that unfolded in February 2024, after the policy engaged.

Our investigator considered Mr and Mrs S' complaint and concluded it shouldn't be upheld. She also thought that the events which led to the claim fell before the policy was in place. Mr and Mrs S don't agree, so the matter has been passed to me to decide.

## **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.

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Having done so, I don't think Mr and Mrs S' complaint should be upheld for broadly the same reasons set out by our investigator.

It's a requirement of many legal expenses policies that any intended claim arises out of an event which occurs during the period of insurance. Mr and Mrs S's policy is no exception. It says:

*"We do not cover the following:*

*1) Legal costs for a legal claim arising from:*

*a) Where the date of incident arose prior to the commencement of this Legal Expenses Policy;"*

*"Date of incident" is defined as "the date of the event; or the date of the first event where*

*there is more than one event arising from the same cause;”*

As a general rule, you take out insurance cover for something which may or may not happen in the future. So, in my judgment, it isn't unfair in principle for a legal expenses insurer to exclude claims for things which started to happen before cover began. There are special policies available which are designed to cover such disputes, but this isn't one of them.

Mr and Mrs S' policy with Acromas started in January 2024 and although they say the event which gave rise to Mrs S' claim happened during the period of insurance, I don't agree.

Having considered all the documents they've submitted, and in particular the ET1, I'm satisfied that the problems Mrs S experienced with her former employer were ongoing in advance of January 2024 and certainly before the insurance was in place. In particular, I can see that Mrs S started her employment in September 2022 and was on probation for a period of 12 months. Following the expiry of that period, her probation was extended by a further three months and then a further meeting took place around three months after that, which suggests that she looks likely to have been on probation for about 18 months in total. Although Mr and Mrs S say this wasn't unusual given the circumstances of her employment and the fact that one line manager hadn't seen a full body of her work, I'm not persuaded this accounts fully for the length of time Mrs S was kept on probation. To my mind this would objectively cause the person subject to the probation to feel uncertain about their position.

And whilst Mr and Mrs S argue that the matters that gave rise to Mrs S' claim arose following a meeting she had with her line manager in February 2024, I'm not satisfied that this accounts for the full history that underlies this dispute such that the meeting which took place in February 2024 was the first event in this case. I say so because the matters cited within that meeting as being cause for concern occurred before the meeting and the policy was in place. Mrs S says these comments came as a surprise to her, but I can see that she'd missed a marking deadline in January 2024 which was expressed as one of the reasons why her probation was extended even further in February 2024. I think that missing that deadline together with her extended probation would have been cause to alert Mrs S to the fact that problems could well arise with her employer later on down the line. And given both of those things occurred before the policy was in place, I'm satisfied that either one could amount to the first in a series of events that led to her dismissal in March 2024 and therefore the claims that arose out of them. Because of that I don't think the position Acromas took was unfair when declining her claim.

In reaching my conclusions I've noted that Mr and Mrs S have said that the specific claims Mrs S made in her Tribunal claim were not known to them before February 2024, but I don't think this makes a difference. All that was necessary was for the events that gave rise to the employment claim to have occurred before the insurance was in place, and for the reasons I've set out above, I think they did.

**My final decision**

I don't uphold Mr and Mrs S' complaint against Acromas Insurance Company Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S and Mr S to accept or reject my decision before 20 February 2025.

Lale Hussein-Venn  
**Ombudsman**