DRN-5280758

The complaint

Mr J complains about ARAG Legal Expenses Insurance Company Limited's handling of a claim he made on a legal expenses insurance policy.

Mr J's policy is underwritten by ARAG, which previously operated as DAS Legal Expenses Insurance Company Limited (DAS LEI). His policy documents refer to DAS LEI as the underwriter and his claim (and complaint) was handled by DAS LEI. My decision will refer to ARAG as it's the current name of the underwriter of Mr J's policy, and liable for claims made on it.

What happened

Mr J holds a legal expenses insurance policy provided by ARAG.

Mr J purchased a tablet but the manufacturer restricted access to it linked to his user account. Mr J sought to take legal action against the manufacturer and made a claim with ARAG.

ARAG initially told Mr J he wasn't covered as his policy cover had started after the event, but after Mr J disputed this established his policy was valid. However, it again said there was no cover for the claim as the circumstances didn't fall within the extent of the cover provided by the policy.

Mr J complained to ARAG. It acknowledged the handling of his claim hadn't been up to the required standard, particularly when it incorrectly told him his policy cover wasn't valid, and offered £50 compensation for this. However, it maintained the policy didn't cover his claim.

Mr J remained dissatisfied and referred his complaint to our service. Our investigator thought ARAG's response to his complaint had been reasonable. Mr J didn't agree and asked for an ombudsman's 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.

In correspondence between Mr J and ARAG, two sections of the cover provided by the policy have been referred to. ARAG says the circumstances of Mr J's claim don't fall within the extent of the cover outlined in these sections. I'll address both sections separately.

Mr J's policy provides cover for contract disputes, and says cover will be provided for legal expenses incurred due to a "*Dispute arising from an agreement… for buying or hiring in goods or services.*"

Mr J purchased the tablet from a third party retailer, and his dispute isn't with the retailer but the manufacturer of the tablet. While I accept Mr J has a contract with the manufacturer in respect by holding an account, the dispute here doesn't arise from the purchase or hire of goods or services. The contract is for a free account to allow Mr J to log in to the

manufacturer's devices. I don't think this could be considered to be a contract for the purchase or hiring of goods or services. I'm aware Mr J has entered into an agreement with the manufacturer for the provision of services linked to his account. However, the dispute here is about access to the tablet, not about the additional services. I can't agree that the nature of this dispute falls within the extent of cover in the policy for contract disputes.

I'm aware Mr J feels very strongly that his claim should be covered under the property protection section of the policy. This says cover is provided for "*A civil dispute relating to your… personal possessions you own or are responsible for, following an event which causes physical damage to such property but the amount in dispute must be more than £100.*"

Mr J's position is that by having access to the tablet restricted, the tablet should be considered damaged, and he holds the manufacturer responsible for that damage as it was they who restricted access.

The terms and conditions of Mr J's policy don't define "*physical damage*" so in the absence of such a definition, I have to take the ordinary and normal meaning of this. While Mr J has made reference to case law and definitions of damage, I'm satisfied these address "*damage*," whereas what I need to do here is consider the definition of "*physical damage*" as that is what the policy condition refers to.

I think in the context of a tablet device, physical damage would reasonably be interpreted as some sort of loss of functionality of the device caused by an external force, for example the screen being broken after it was dropped. Furthermore, I think that such a definition implies that the replacement or repairing of parts of the tablet would be required in order to fix it.

This differs from what's happened here. There hasn't been an external force which has damaged parts of the tablet, rather the access to it has been restricted by the manufacturer. I can't agree that the condition of the tablet means it's been physically damaged.

On balance therefore, I agree with ARAG's conclusion that Mr J's claim doesn't fall within the cover provided by the policy. However, its handling of the claim could have been better. I note in particular that after registering the claim, ARAG told Mr J in error that his policy cover had started after the event giving rise to the claim.

Mr J had to take additional time to explain that the cover had been in force at the relevant time and so the progress of the claim was unnecessarily delayed. ARAG has recognised this and offered £50 compensation.

I think this is a fair amount, given the short period of delay, and this didn't have a material effect on the outcome of Mr J's claim. It recognises the inconvenience caused to Mr J by having to provide further information and upset caused by being told in error that there was an issue with the policy cover and event date.

My final decision

I don't uphold Mr J's complaint.

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

Ben Williams
Ombudsman