

The complaint

Ms T complains about U K Insurance Limited's decision to end funding for her legal expenses insurance claim.

What happened

- Ms T was involved in a car accident and asked for assistance from her motor legal expenses policy to make a personal injury claim.
- The claim was accepted and moved forward. Initially this was done by UKI's panel solicitors but then it was taken over by a firm (G) Ms T found.
- In 2024 a settlement offer from the other side was rejected following counsel's advice.
- In September 2024 G said, having reviewed paperwork Ms T provided relating to an Employment Tribunal (ET) claim, it no longer thought the previous offer would be beaten if the case progressed to trial.
- That was because the ET papers suggested her health had been impacted by bullying and discrimination which would make it difficult to convince a court the car accident was the main cause of her injuries.
- Counsel's advice was sought which confirmed there were no longer reasonable prospects of beating the offer that had been made and the case should be settled on the best terms.
- Ms T didn't agree and wanted the case to proceed to trial.
- UKI said the claim no longer had reasonable prospects of success so it wouldn't cover the costs of this.
- However, it would allow some additional time and funding for G to try and negotiate an increased settlement offer from the other side.
- Ms T didn't agree to that. UKI confirmed funding for her claim would therefore be withdrawn but it would reconsider if she provided a positive opinion on prospects from a suitably qualified and experienced barrister.

Our investigator thought it was fair of UKI to have withdrawn funding for Ms T's claim after both G and counsel advised there were no longer reasonable prospects of beating the previous offer. And while Ms T was concerned that had been done without her receiving medical treatment the legal opinions explained why that didn't make difference to the claim's prospects of success. She didn't uphold the complaint.

Ms T didn't agree. She said the recommended medical treatments were necessary to help with her recovery and get her back to work. And they'd been recommended by relevant experts. She was unhappy it had been said she was "*not credible, dishonest and opportunistic*". She didn't accept her condition and associated symptoms were exaggerated or over reported and said they were recognised by professional experts. So I need to reach a 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.

I acknowledge Ms T has been diagnosed with a number of significant and challenging conditions, which I understand can make things difficult in her daily life.

The question I need to consider is whether UKI did anything wrong when deciding to withdraw funding for her claim. I'm not considering any concerns Ms T may have about the actions of her solicitors (or any other professionals involved with her claim).

That's because the actions of those solicitors aren't something we can consider. We can only consider the covered activities set out in our rules (the Dispute Resolution Rules or DISP). Those activities include regulated activities. "Carrying out a contract of insurance" is a regulated activity. So we can look at what UKI did here. But Ms T's solicitors (or other professionals involved in the case) aren't carrying out a regulated activity and their actions aren't covered by any of the other activities we can consider.

When it comes to the actions of UKI, the relevant rules and industry guidelines say it has a responsibility to handle claims promptly and fairly. It shouldn't reject a claim unreasonably.

I've looked first at the terms and conditions of Ms T's policy. Her claim is one that could be covered by her policy. However, cover is only provided as long as "*we and your appointed representative agree your claim has reasonable prospects of success for the duration of the claim*".

And the policy defines reasonable prospects of success as "*We and the appointed representative agree that there is a better than 50% chance that you will: a) obtain a successful judgment; and b) recover your losses or damages or obtain any other legal remedy we agree to, including an enforcement of judgment, making a successful appeal or defence of an appeal*".

As UKI initially accepted the claim and provided funding for panel solicitors and then G to deal with matters the initial need was clearly met at that time. However, the policy says this requirement remains in place for the entire time the claim is ongoing. And, as an insurer isn't a legal expert, we don't think it's in a position to assess that. It should be carried out by a suitably qualified lawyer who has relevant experience. Where that has been done we think it's reasonable for an insurer to rely on a properly written and reasoned legal opinion when deciding whether a claim has prospects of success or not.

In this case UKI received an updated assessment of the claim's prospects from G in September 2024. That had concern about whether the claim should progress to trial now that further ET evidence had been reviewed. Counsel's opinion was subsequently requested on this which confirmed concerns about the view a court was likely to take on this information. Counsel said "*In short I no longer consider that there are reasonable prospect of success of the Claimant beating the Defendants part 36 offer and based on the documentation I have reviewed the Claimant should settle on best terms*".

I can see the barrister specialises in serious and high value personal injury litigation and both she and G gave clear reasons for why they no longer considered the claim to have prospects of success. I think it was reasonable of UKI to rely on the advice it had been given and stop funding for Ms T claim. I also think it was right UKI agreed it would nevertheless provide some additional funding to see if an improved settlement could be negotiated with the other side (though that didn't happen as Ms T didn't accept her case shouldn't proceed to trial).

In her response to our investigator's view Ms T has focussed on medical treatments which she believes are necessary to help with her recovery and to return to work. She's suggested UKI should pay for these.

I understand these are things Ms T might have needed but they aren't something covered under her policy with UKI; they might be something that could have been recovered as part of her claim. But I think it was reasonable of UKI to conclude this didn't make a difference to the assessment of that claim's prospects of success. It was the evidence as to whether Ms T's injuries could be attributed to the accident she had which was key here; not what costs might be incurred in providing treatment for those injuries (or whether they had been exaggerated or over reported).

Ms T says it's been alleged she was "*not credible, dishonest and opportunistic*". I haven't seen that mentioned in the correspondence from UKI I've reviewed. It did reference the risk of a court making a finding of 'fundamental dishonesty' but I don't think that was unreasonable given it was contained in the opinion from G. And a note of a subsequent call between UKI and Ms T says it explained her solicitors weren't suggesting she had been dishonest but were highlighting the risk of what a court might conclude if the claim proceeded to trial. I think that was appropriate. I also think it was right UKI explained to Ms T what she would need to do if she wanted it to reconsider its position on the claim's prospects of success.

I understand Ms T hasn't provided a supportive counsel's opinion to date so I don't think there's any further action UKI needs to take.

My final decision

I've decided not to uphold this complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Ms T to accept or reject my decision before 29 July 2025.

James Park
Ombudsman