

## **The complaint**

Mr S complains that Acromas Insurance Company Limited declined a claim on his legal expenses insurance policy.

Where I refer to Acromas, this includes its agents and claims handlers acting on its behalf.

## **What happened**

Mr S made a claim for cover under the contract disputes and personal injury heads of cover for proposed legal action against his father, after his father had cut off communication and withdrawn financial support for him. The proposed legal action included equitable estoppel, breach of contract and personal injury claims.

Acromas said there was no cover for a number of reasons, including:

- Cover under the consumer contracts section is for a legal claim arising from a dispute over the policyholder buying, hiring or leasing personal goods or services. Mr S was not seeking cover to defend or pursue a legal claim arising from a dispute over contracts that he had entered into, but to bring a claim against his father to determine that he is collaterally responsible for the contracts.
- The dispute with his father started before the policy was taken out.
- The dispute concerns a contract with someone outside the UK, and concerns a defamation claim, neither of which is covered.
- There's no cover for family disputes, including maintenance claims.
- Cover for personal injury is excluded where the illness or injury was not caused by a sudden or specific accident, or happens gradually. The injury he suffered on receiving correspondence from his father was not sudden.

When Mr S referred the complaint to this Service, our investigator said it was fair to decline the contract disputes claim, but the personal injury claim should be reconsidered. She said this needed to be considered from Mr S' perspective. And from his perspective, the withdrawal of financial support was an unexpected and untoward event.

Mr S disagreed with the investigator's findings about cover for the contractual claim, and referred to legal advice he had obtained about this.

Acromas also disagreed. It said the policy does not cover the claim because:

- it does not consider there is a contract between Mr S and his father;
- the claim does not fall within the definitions of either the contract disputes or the personal injury sections of the policy; and
- it is excluded as a continuation of a pre-existing dispute, relating to financial arrangements and defamation.

As no agreement was reached, the complaint was referred to me for a decision.

I issued a provisional decision, saying I was not minded to uphold the complaint. I set out my reasons as follows.

### **My provisional decision**

In making my decision I need to consider what's fair and reasonable in all the circumstances of the case, taking 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.

Both Mr S and Acromas have provided extensive comments and referred to detailed legal advice. I've taken everything into account but won't comment in detail on every single point that has been made. Instead, I'll focus on the key points that are relevant to the outcome I've reached. That's in line with our remit, which is to resolve complaints promptly and with minimal formality.

In particular, while I've taken account of the legal arguments, it's not my role to determine the law or apply it strictly in the same way as the courts. I'm not required to engage in a detailed analysis of the law, but to take account of relevant legal principles when deciding what's a fair and reasonable outcome, taking into account all the circumstances of the case.

The relevant industry rules and guidance say insurers must deal with claims promptly and fairly, and not unreasonably reject a claim. The starting point for considering this is the policy terms, since they set out the basis of the insurance contract between Mr S and Acromas.

The policy includes cover for consumer contract claims as follows:

*We cover the following:*

*Legal costs for defending or pursuing a legal claim arising from a dispute over:*

- *you buying, hiring or leasing any personal goods or services;*

There are exclusions and limits on the cover provided, including:

*We do not cover the following:*

- *any contracts or agreements which you made before the commencement of this Legal Expenses policy;*

In the first instance, it's for the policyholder to prove their claim. So to be covered, Mr S needs to show the dispute is about him buying goods or services. If the claim is potentially covered, I would then need to consider the exclusion.

Mr S says he was surprised Acromas concluded the claim does not arise from a dispute over him buying, hiring or leasing personal goods or services. Although the contracts for goods or service were with other parties, he says there was a collateral contract with his father, which took its substance from the principal contracts for the buying of goods and services – and the principal contracts have been breached because of his father's refusal to honour his funding obligations. Without his father's support, he can't pay all of the amounts due under the contracts.

I've considered this carefully but don't agree this claim should be covered, because:

- The claim doesn't arise from a dispute over a contract Mr S entered into for buying services. There is no dispute about his purchase of services. Mr S doesn't have a dispute with the other parties over the services or goods provided, or a dispute about whether he is liable to pay for those. The dispute is about the arrangement with his father.

- The policy covers disputes over contracts he has entered into for the purchase of services, not disputes over family arrangements which provide him with the means to pay. There's a difference between consumer disputes – which the insurance will cover – and family agreements of an entirely different kind.
- So I don't think this is a dispute over Mr S *"buying, hiring or leasing any personal goods or services"*.
- But even if the claim is potentially covered, I need to consider the exclusion and I think that applies.
- The policy excludes cover for disputes about *"contracts or agreements which you made before the commencement of this Legal Expenses policy."* The dispute concerns agreements between Mr S and his father. These were made before he took out the insurance.
- The contracts for services may have been entered into after the policy started but, as Mr S has acknowledged, the principal contracts were breached because his father refused to honour their agreement. His dispute is with his father. The agreement with his father to provide financial support dates back to before he took out this policy.

For these reasons, I don't consider the claim arises from a dispute over Mr S buying, hiring or leasing personal goods or services, as required. But even if it does, there's no cover if the agreement was entered into before the policy started – that's the relevant date, not the date when the dispute arose. I think it is fair to rely on that exclusion in the circumstances here.

On that basis, I'm not persuaded the contract dispute is covered.

The cover for personal injury claims is set out as follows:

*"We cover the following:*

*We will cover legal costs for you... for pursuing a legal claim that arises from an event, which causes death or bodily injury to you."*

This wording does not say the claim must be a claim for damages for personal injury – what's covered is wider than that and includes any claim Mr S brings as a result of an event that caused bodily injury.

Mr S is taking legal action against someone (his father) as a result of an event (the withdrawal of financial support) that he says caused him injury. He's provided medical evidence indicating he was caused harm to his mental state and also physical injury. So on the face of it, this is potentially covered.

However, I also need to consider any relevant exclusions. The policy includes the following exclusion:

*"We do not cover the following:*

*Any claim relating to:*

- *illness or injury not caused by a sudden or specific accident or that happens gradually;"*

So there must be a sudden and specific accident. And to be an accident, it must be unexpected.

Mr S says the harm he suffered didn't happen gradually, and was caused by the shock of receiving an unexpected letter:

*“... sending me an aggressive and threatening letter, threatening me with an injunction and withdrawing financial support in July 2024 was an “accident” from my perspective since it was entirely unexpected after several years of communication and help...”*

He says the letter was entirely unexpected and came as a complete shock after several years of communication and support. I'm not, however, persuaded the letter came out of the blue, for the following reasons:

- There had been a similar disagreement some years earlier.
- Mr S says that was resolved and he had been on good terms with his father for three years until June 2024. But it's clear the relationship then broke down. By his own admission, Mr S says there was a falling out in June 2024. There was correspondence between them and he was cut off by his father in June.
- Mr S hasn't provided copies of this correspondence, but the letter he received referred to previous correspondence he had sent, which was said to contain threats and abusive language, and said he had continued to act in this way. So there was a sequence of events that led up to the letter being sent to him; it was not something that happened in isolation.
- He had a previous dispute with his father in the past and his father had on that occasion also cut off financial support. So there was a history of behaviour with support being provided and then withdrawn following a disagreement.
- Looked at in this context, it would reasonably have been expected that the dispute would lead to a similar reaction from his father.
- The letter did not arrive *“entirely unexpected after several years of communication and help”*. It arrived after a month of disagreement and correspondence between them about their dispute. And as I've said, past events indicated that a disagreement of this nature was likely to lead to support being withdrawn, as had happened before.

The balance of evidence indicates that this was not a sudden or specific accident – it was the culmination of a breakdown in relations over the space of at least a month. So I'm not persuaded that Mr S is entitled to cover for a personal injury claim.

No doubt Mr S found himself in a very difficult position following the withdrawal of his financial support, but that doesn't mean the dispute is covered by his insurance. And for the reasons set out above, I think the decision to decline both the contract and personal injury claims was fair.

### **Replies to the provisional decision**

Acromas replied to say it accepted the provisional decision.

Mr S has not accepted it, and his representatives have provided further submissions on his behalf. These are lengthy and include detailed legal submissions. I won't set them out in full but the key points include:

- It is not open to apply a different legal test of an accident as something “unexpected” rather than something “unintentional”.
- Where the legal authorities are clear as to what constitutes an “accident” a decision that rejects a consumer's complaint when that complaint is fully supported by those authorities cannot be considered to be “fair and reasonable”.

- The accident was not the withdrawal of financial support, it was the receipt and reading by Mr S of the letter from his father's solicitors threatening possible criminal proceedings and injunctions as well as cutting off contact between them. The contents of the letter came as a complete shock to Mr S and caused him great distress.
- The provisional decision considered the wrong question of whether the sending of the July 2024 letter was "expected" from Mr S' perspective. The correct approach would be to look solely at the question of whether "bodily injury" was expected and/or intended from his perspective.
- It can't be suggested Mr S expected to suffer psychiatric injury, intentionally caused himself a self-inflicted injury or had undertaken a reckless course of conduct which put him in serious danger of bodily injury. And this was not the natural and direct consequence of Mr S' course of conduct; a falling out between father and son was not likely to result in bodily injury.
- The question of whether or not the injury was accidental is to be assessed from the perspective of the victim.
- There was an unresolved disagreement, as there had been on many occasions in the past. But Mr S did not expect to receive a letter threatening him with imprisonment and other legal action, or being cut off from his family.
- The sole question to consider is whether Mr S' "bodily injury" was intended and/or expected from his perspective when he had an argument with his father in June 2024. The answer to that question is "no". So this constitutes an "accident".
- An accident need only be "unintentional" from the insured's perspective, and even events which are "foreseeable" and "expected" may still qualify as accidents.

### **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.

Mr S' response focuses on the decline of the personal injury claim. There's nothing new that would lead me to reconsider my provisional decision in relation to other aspects so I don't think I need to say anything further on that.

I have considered very carefully the detailed submissions about the personal injury claim but these don't lead me to change my provisional decision, for the following reasons:

- Mr S is covered if his claim arises from an event that caused him death or bodily injury. That event must be a sudden or specific accident, and not something that happens gradually.
- His legal arguments include references to caselaw. He says those judgments mean this must be considered an accident and no other outcome can be fair and reasonable. I appreciate he has provided detailed legal submissions. But Acromas has done likewise - and the legal advice it has received reaches an entirely different conclusion.
- Mr S also says the policy should be construed from the viewpoint of the insured, but that doesn't mean whatever he asserts must be accepted without question.

- Mr S' counsel has referred to authorities including *De Souza v Home & Overseas Insurance Co. Ltd* [1995] LRLR 453, to the effect that the word 'accident' involves the idea of something fortuitous and unexpected, as opposed to something proceeding from natural causes; and *Chief Adjudication Officer v Faulds* [2000] 1 WLR 1035 – the word 'accident' should be given its ordinary meaning of something happening unintentionally (an unlooked-for mishap or an untoward event), and an accident which was foreseeable was still an accident.
- On the other hand, Acromas' counsel has pointed to the fact some of the authorities referred to are about worker's compensation benefit cases, and the courts have cautioned against using these to resolve insurance issues. And he says even those cases acknowledge the need to identify a specific incident as opposed to a process – and in the context of this policy, there are the additional requirements that the "accident" causing injury must be specific or sudden.
- Acromas' position is Mr S' injury was not caused by a sudden and specific accident. It says he's attempting to characterise the letter as a single and sudden "accident" which caused alleged injury but, although the letter may have formalised the cutting of links, the estrangement was not sudden, nor can it fairly be described as a "specific accident".
- I find that argument quite persuasive. Mr S has provided copies of messages he sent to this father. He did send a conciliatory message but he didn't receive anything in reply indicating they were reconciled. Mr S was upset that he was being cut off by his father. Having considered the nature of the messages, I don't consider it would have been "*entirely unexpected*" (as Mr S claims) for a letter to be sent asking him to stop, and saying further action would be taken if he did not.
- In coming to this view, I've taken into account that in *De Souza v Home and Overseas Insurance Co Ltd*, the court referred to the following points:

*"A man must be taken to intend the ordinary consequences of his acts, and the fact that he did not foresee the particular consequence or expect the particular injury does not make the injury accidental if, in the circumstances, it was the natural and direct consequence of what he did, without the intervention of any fortuitous cause."*

Injury is not caused by an accident where someone "*pursues a course of conduct which naturally results in the intervention of third persons ... In these cases, the third person's act cannot be regarded separately; it is a consequence resulting from the assured's own wrongful conduct which he ought reasonably to have foreseen and expected, and there is, therefore, so far as he is concerned, nothing accidental about it.*"

- As I've explained, detailed legal arguments have been put forward in this case. I need to take account of these arguments, but it's not for me to determine the law; I need to decide what's fair and reasonable, taking into account all the circumstances.
- Looking at all the circumstances, it seems to me the letter Mr S received was the culmination of a series of events – and the consequence of his own actions. It wasn't something that happened in isolation or something that would have been entirely unexpected. On that basis, the conclusion Acromas reached that this was not a sudden or specific accident was a reasonable one.

## My final decision

My final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 12 August 2025.

Peter Whiteley  
**Ombudsman**