

## **The complaint**

Mr N complains that HDI Global Specialty SE would not progress a claim on his legal expenses insurance policy unless he signed a letter of engagement with solicitors.

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

## **What happened**

Mr N made two claims on his legal expenses insurance policy. He wanted to pursue legal action in relation to works carried out on his property. HDI referred the claims to its panel solicitors to advise on whether the legal action had reasonable prospects of success, as required under the policy terms.

The solicitors asked Mr N to sign a letter of engagement with them before providing their advice but he complained about this. He said there was nothing in the policy terms that required him to do this and he was worried about the implications of signing an agreement with the solicitors, including the risk he might have to pay their costs himself.

HDI said:

- it was part of the process to ask solicitors to assess prospects of success;
- the solicitors would be acting for Mr N and it was standard practice for them to ask the policyholder to sign their terms of business letter;
- but the costs of the legal assessment would be covered and he would not have to pay these.

When Mr N referred his complaint to this Service, our investigator said Mr N could sign the engagement letters so the legal assessment could be carried out and, if the advice was that there were prospects of success, he could then decide whether to proceed with the claims.

Mr N didn't accept the investigator's view and requested an ombudsman's decision. He said there's nothing in the policy terms that requires him to sign a contract with the solicitors, and he hasn't needed to do this on previous claims.

I issued a provisional decision saying I was minded to uphold the complaint and direct HDI to consider Mr N's claim in line with the policy terms and confirm whether cover will be provided. I set out my reasons as follows:

## **My provisional decision**

The relevant industry rules and guidance say insurers must deal with claims promptly and fairly, support a policyholder to make a claim, and not unreasonably reject a claim.

The policy terms say cover will be provided if the claim has reasonable prospects of success. This is defined as a greater than 50% chance of the policyholder successfully pursuing the claim and enforcing any judgment that might be obtained.

HDI referred the matter to panel solicitors. That's in line with standard industry practice – insurers will obtain legal advice about the prospects of success, and they're entitled to rely on that advice unless it's obviously wrong.

The issue in this case is that the solicitors asked Mr N to sign their letter of engagement before they would advise on the case.

Mr N says the policy terms don't require him to sign any agreement with the solicitors. The policy terms set out the insurance contract between Mr N and HDI. HDI provides the insurance cover, so it will pay the legal costs for Mr N. But once solicitors are appointed to represent Mr N, they will be acting for him, not HDI. So there will be a separate agreement between Mr N and the solicitors, who will need Mr N, as their client, to sign their letter of engagement.

At this stage, however, the solicitors are not acting for Mr N; they are giving advice to HDI, to help it decide whether to provide cover for the claim. So there's no solicitor/client relationship between Mr N and the solicitors.

HDI says

- it has a duty to refer the claim to a suitably qualified solicitor for a legal assessment;
- it's standard procedure for the solicitors to ask the policyholder to sign the letter of engagement;
- the solicitors are acting for the policyholder, who must sign the client care letter in order for the solicitors to act for them.

I accept that – once solicitors are appointed to act for the policyholder – they will need their client care letter to be signed. That's standard practice. But they will only be appointed to represent Mr N once HDI has confirmed that the claim is covered.

At this point, the claim is still being assessed and cover has not yet been confirmed. If the legal advice is that the claim doesn't have prospects of success, insurers won't generally agree to cover a claim, so solicitors will not be appointed to represent the policyholder.

HDI hasn't explained why it would be reasonable to not proceed with a claim where the policyholder hasn't signed terms with solicitors, when those solicitors are not yet acting for the policyholder.

In the circumstances, I don't think it's reasonable for HDI to refuse to proceed with Mr N's claim. I appreciate it may save time later on if he signs a client care letter, but there's no requirement for Mr N to sign at this stage, when cover has not yet been agreed and the solicitors have not yet been appointed to act for him – indeed, they might never be appointed to represent him.

HDI can obtain the advice it needs from solicitors and then confirm whether the claim is covered. If the claim is covered and the solicitors are appointed, they would no doubt require Mr N to sign their letter of engagement before they can act for him.

If the solicitors require a letter of engagement to be signed in order to advise whether the claim has reasonable prospects, presumably HDI could sign that – given that any advice is for the benefit of HDI, to help it assess the claim.

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

Mr N replied saying he accepted the provisional decision, but also asked whether

compensation might be awarded for the distress and inconvenience he was caused.

HDI does not accept the findings set out in the provisional decision and has provided further comments. In summary, the key points includes:

- As soon as the claim is felt to be an insured event and no exclusions apply, cover is granted and will remain unless the solicitor assesses the claim as not having reasonable prospects of success. This is confirmed in the letter of instruction to the solicitors.
- As the existence of reasonable prospects is an ongoing requirement, the cover has to be triggered as soon as the claim is accepted.
- Solicitors were appointed immediately once it confirmed provisional cover was in place, and it advised the solicitors they were appointed to act and cover would continue provided the case has reasonable prospects of success.
- The solicitors' position is that their client is the policyholder, not the insurer, and they are giving advice to the policyholder. Once the client has accepted their terms of engagement they can begin working on the case.
- The solicitors require the client to sign their terms of engagement and this is out of its control, but it will pay solicitor's costs and will continue to do so unless and until the solicitors advise the claim doesn't have reasonable prospects of success.
- However, it has acknowledged that it could have done more to explain why the insured must sign the solicitors' terms of business and to reassure Mr N about the costs. So, if the Ombudsman feels compensation should be awarded in respect of this, it would have no objections

### **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've considered the further comments from HDI but these haven't led me to change my decision, for the following reasons.

- Insurers need to give consumers the information they need at the right time and in a way they can understand, and the information should be clear, fair and not misleading. They should support their customers in making use of their policy without unreasonable barriers. It's important that a consumer understands how their policy works.
- I don't think it was clear from the policy documents that Mr N would have to sign the solicitors' letter of engagement at the outset or that this was how the policy would work.
- Mr N has pointed out that the policy terms don't require him to sign any agreement with the solicitors and he wasn't expecting this – having had other claims previously where it wasn't required.
- He made a claim on his policy and wanted to know if the claim would be covered. He's entitled to have his claim assessed in line with the policy terms and be told if it's covered. HDI says cover is in place at the outset. But cover is only provided if the claim has reasonable prospects, so that needs to be assessed.

- The policy terms say once a representative is appointed they will try to resolve the dispute. But they can't start working on the case or try and negotiate unless the claim is covered. And for the claim to be covered, prospects need to be assessed. HDI says as the existence of reasonable prospects is an ongoing requirement, the cover has to be triggered as soon as the claim is accepted but it's not clear how cover can be triggered before prospects have been assessed, given that cover is subject to the claim having reasonable prospects.
- It's not for me to say how the solicitors should carry out their work, or how to manage the relationship between them and their client. But I can determine how the insurer should deal with the insurance claim.
- In my experience, having dealt with very many complaints about legal expenses insurance, it's not standard practice with other insurers for solicitors to be appointed to act for a client (and therefore, require them to sign their terms of appointment) until after prospects have been assessed and cover has been confirmed.
- In these circumstances, where Mr N did not wish to sign terms with the solicitors, I don't think it was reasonable to force him to do so and refuse to continue with his insurance claim in the absence of that. If HDI requires this, it should have been set out very clearly, so Mr N understood that was how his policy worked and that he would be required to do this. If another policyholder is happy to proceed in that way (perhaps to save time) that may not be an issue. But Mr N is entitled to have the claim on his insurance policy assessed without being forced to sign the solicitors' terms.
- In these circumstances I don't consider it fair or reasonable to require him to sign the solicitors' letter of appointment until his claim has been assessed fully, which necessarily involves an assessment of the prospects of success, since that is required for a claim be covered.
- Being told his claim would not continue unless he entered into terms with the solicitors delayed the claim and was upsetting for Mr N, who was worried he might be liable to legal costs. I appreciate HDI did try to reassure him but, for the reasons set out above, I don't think the process was clear or that it was fair to put Mr N in this position. So I am awarding compensation for the distress and inconvenience caused to him.

### **My final decision**

My final decision is that I uphold the complaint and direct HDI Global Specialty SE to

- consider Mr N's claim in line with the policy terms, to include obtaining an assessment of the prospects of success, and confirm whether cover will be provided before requiring him to sign terms with the solicitors; and
- pay compensation of £200.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 7 July 2025.

Peter Whiteley  
**Ombudsman**