

## **The complaint**

Mrs C complains Royal & Sun Alliance Insurance Limited turned down a claim she made on her legal expenses insurance policy.

## **What happened**

In August 2024 Mrs C contacted RSA seeking assistance with a constructive dismissal claim. After reviewing matters RSA said it thought the issues giving rise to that claim had begun prior to the start date of her policy (September 2023). And it didn't cover claims where that was the case. Mrs C didn't agree. She said the claim she wanted to bring was separate to previous issues she'd raised and was something new. RSA thought Mrs C's resignation (and subsequent constructive dismissal claim) resulted from events which had been ongoing since January 2023 (prior to the policy start date). It didn't think her claim was covered.

Our investigator thought RSA was correct to say the events giving rise to Mrs C's claim began before she took out this policy. She thought it acted fairly in turning down her claim.

Mrs C didn't agree. In summary she said:

- A constructive dismissal claim would always involve a number of incidents leading up to that dismissal. It wasn't reasonable to expect someone to realise the first of those events could constitute a claim as they wouldn't know in advance what action their employer would then take. In this case it was only after a number of events had taken place she could reasonably have thought there was a problem. And if RSA didn't cover constructive dismissal cases its policy should make that clear.
- She'd resigned from her employer in July 2024 (though that had initially been put on hold). Although she'd referenced events prior to 2024 it was only later she realised there might be an underlying problem here. It was false allegations made against her in January 2024 along with the refusal of a request to work reduced hours which made her realise her employer was trying to constructively dismiss her.
- Those issues weren't related to a previous claim she'd made for sexual orientation discrimination. If her application for reduced hours had been agreed she wouldn't have been forced to resign and would still be working for her former employer (and wouldn't have had to take a job paying less money with poorer conditions). It was that issue which RSA should consider as the event triggering her claim. And it had taken place during her period of insurance with it.

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.

Mrs C has made clear how difficult she's found dealing with the issues with her employer and the decline of her legal expenses claim. And she's set out the impact that's had on her. I

appreciate this has been an extremely distressing time for her and I was very sorry to learn how challenging things have been. However, the question I need to consider is whether RSA did anything wrong in turning down the claim she made to it. And in relation to that the relevant rules and industry guidelines say RSA has a responsibility to handle claims promptly and fairly. It shouldn't reject a claim unreasonably.

I've looked at the terms and conditions of Mrs C's policy. That does contain cover for 'Employment Disputes' in relation to which it says "*we will cover the Costs and Expenses for the following: – A dispute relating to your contract of employment or future employment for your work as an employee*". As Mrs C's claim for constructive dismissal would relate to her contract of employment it is something her policy could in principle cover.

However, it's a condition for cover to be provided that "*the Date of Occurrence of the insured incident is during the Insurance Period*". The policy says for civil cases date of occurrence is "*the date of the very first event that leads to a claim. This is the date when the event happened, not the date you first noticed it or told us about it*". The policy excludes "*any event which leads to a claim that occurs before the Insurance Period*". And it says the Insurance Period is "*the period in which you have insurance cover with us...*"

I understand that period in this case began in September 2023. So for Mrs C's claim to be covered the date of the first event which led to her claim would need to have taken place after that. It's clear that was the case in relation to the event which triggered her resignation; the refusal by her employer of a request for reduced hours in July 2024. I also recognise that if her request hadn't been refused she wouldn't have needed to resign. However, I think it's also clear that wasn't the first event giving rise to her claim. In her resignation letter Mrs C described this as "*the straw that broke the camel's back*". And she's acknowledged allegations made against her in January 2024 also led to her constructive dismissal claim.

The question is whether there were earlier incidents (and in particular ones prior to the policy start date in September 2023) which also led to that claim. I think it was reasonable of RSA to conclude there were. In a letter to her employer in August 2024 Mrs C said "*I am making it clear that this refusal of reduced hours is the last of many rejections that I have suffered at the hands of [employer] and that enough is enough*". She went on to reference a request she'd made to move from her role in January 2023 because of an incident with her manager. She felt she'd been treated unfairly in relation to that. And she highlighted a recruitment grievance that had been ongoing since February 2023 where no outcome had been provided to her appeal. In her resignation letter she highlighted that she'd applied for 11 internal jobs prior to her flexible working request and her employer "*has not met me in the middle for any of my suggestions since January 2023*".

So while I appreciate the immediate trigger for Mrs C's constructive dismissal claim was the refusal of her flexible working request I don't think that incident stands in isolation. It seems reasonable of RSA to have concluded this was the culmination of a long running dispute Mrs C had with her employer which began when she first requested a move from her role following a problem with her manager in January 2023.

I recognise her concerns about specific actions of that manager form part of a separate sexual orientation discrimination claim Mrs C has lodged. But I think it's fair to say they also played a part in circumstances which led to this constructive dismissal claim. In her August 2024 letter to her employer Mrs C referenced the actions of her manager and said she hadn't wanted to leave her role but had no other option because of her behaviour. She went on to say (after setting out further concerns about her manager) "*it did all force my massively reluctant resignation*". And those issues began in January 2023. I think it was reasonable of RSA to conclude the date of the first event which led to this claim took place prior to the start of Mrs C's policy.

I've gone on to consider whether it was fair of RSA to decline the claim on that basis. In doing so I've taken into account our normal approach which is to consider what a consumer knew about an issue at the point they took legal expenses cover out. If they didn't (and couldn't have) known there was a problem we'd likely say it wasn't fair of an insurer to turn down a claim. However, if the consumer was aware of something that could lead to a dispute (even if they didn't have full information about that) the position would likely be different.

In this case Mrs C says there would always be a number of incidents leading up to a constructive dismissal claim. And I recognise when taking the policy out she's unlikely to have known she'd need to make a constructive dismissal claim. But I do think she was aware she had an employment dispute. By September 2023 she'd already encountered issues with her manager, had requested to be moved to a different area and had lodged a grievance (and appeal) following her unsuccessful application for two alternative jobs.

I appreciate matters appear to have escalated from January 2024 which led Mrs C to conclude her employer was trying to constructively dismiss her. But she was nevertheless aware she had an unresolved work dispute (relating to her manager and recruitment) at the point she took the policy out. And those matters led on to her subsequent claim. I think it was fair of RSA to decline cover on the basis of the exclusion for events leading to a claim which took place prior to the policy start date.

### **My final decision**

I've decided not to uphold this complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 15 August 2025.

James Park  
**Ombudsman**