

The complaint

Mr G complains that Royal & Sun Alliance Insurance Limited ("RSA") has treated him unfairly in relation to a claim under his legal expenses insurance ("LEI").

What happened

The background of this complaint is well known between the parties, so I'll just provide a summary of events here.

- Mr G has an ongoing neighbour dispute regarding a boundary. Mr G raised this with RSA on a number of occasions while looking to make a claim under his LEI cover. And each time RSA passed this to one of its solicitors to complete a prospects assessment – and each time these legal assessments did not show prospects. So, RSA declined to cover Mr G's costs on each occasion.
- Following a complaint, in September 2024 RSA provided Mr G with a final response letter. It referenced each of the occasions a claim had been raised and the solicitors' advice stating the prospects were below the required 51%. It said it had not received a copy of a barrister's opinion on prospects that Mr G had referenced, and said the comments it had seen from the barrister did not amount to an assessment of prospects. It invited Mr G to obtain alternative legal opinion if he wished to and it would reassess the matter.
- The complaint came to our Service and one of our Investigators looked into what happened. Having looked at all of the evidence, he didn't uphold the complaint. He said:
 - The complaint this Service could consider was limited to the actions of the insurer and whether they'd complied with their terms and good practice, not the legal merits of the dispute.
 - Any dispute about the quality of advice given by lawyers would need to be considered by the Legal Ombudsman Service as this was outside of the scope of this Service.
 - RSA's policy stated it would only pay for legal expenses after written consent of RSA was obtained. And to do so it was required to show it was more probable than not that the outcome of the legal action would be successful (which is often referred to as prospects of success).
 - In this case, each time Mr G had attempted to make a claim, RSA had established Mr G had an active policy that included cover for such a claim that he was seeking to make (in principle). RSA then it correctly passed this to a solicitor for legal assessment on the prospects of success. The Investigator said on each of the four occasions Firm A (a solicitors firm) had determined Mr G's claim was without prospects of success.
 - The general approach of this Service was that insurers can fairly and reasonably rely upon the advice of legal professionals. And where a complainant disagrees, they retain the option of obtaining their own legal opinion on the prospects of success to challenge this. Here, Mr G had

provided some submissions, but he hadn't provided a specific legal opinion, of his own, on the prospects of success – so the Investigator didn't ask RSA to do anything further.

- Mr G disagreed, and said this Service hadn't looked into things properly. And he reiterated why he believed the legal merits of his complaint were clear, and made clear he wouldn't accept the situation from his neighbour. Mr G provided various submissions, including screenshots of emails and letters that highlight the history of the dispute and details of his lease. And he said he'd had a barrister's comments regarding potential fraudulent activity at an address relevant to the claim.
- The Investigator explained they hadn't changed their mind, and reiterated Mr G could approach a solicitor or barrister for a legal opinion if he wished to contest RSA's actions – and provided guidance from our website that detailed this. He explained we'd not received a report from the barrister, nor anything else that amounted to a legal opinion on prospects from Mr G.
- Mr G was still unhappy, but made clear he wouldn't obtain anything further. And he indicated his report from a chartered building surveyor should be sufficient.

So, the matter has been passed to me for an Ombudsman's 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.

When considering what's fair and reasonable in the circumstances I need to take 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.

Having done so, I'm not upholding this complaint, I'll explain why.

As our Investigator has previously outlined, our role is to consider RSA's handling of this claim as the insurer. I'm not considering the advice of the appointed solicitors' handling or assessment of the legal claim, nor the quality of advice (their assessment of the legal claim) as this falls outside of the scope of this Service.

The starting point in this case is the terms of Mr G's LEI policy. This states:

"The provider will only pay legal expenses after you've got their written consent. To get their consent and for it to remain effective you must be able to show at all times that:

- i) *It's more probable than not that the outcome of any legal action will be successful..."*

All LEI policies of this nature that I've seen include terms to this effect, which mean the claim has to have reasonable prospects for an insurer to cover the claim.

This means if Mr G's claim against his neighbour or relevant third party was shown to have at least 51% or greater prospects of success and would recover his losses or damages then the claim should be covered (subject to the remaining terms and conditions of the policy).

In determining whether Mr G's claim has reasonable prospects, RSA sought the opinion of a firm of solicitors. It explained to RSA that in its legal opinion, the claim had less than 50% prospects of success. I won't repeat all of these in full, but specifically they have commented

that in their view:

- it would be unlikely for a judge to order an extension to be knocked down;
- there would be a requirement for evidence to show substantial nuisance;
- Mr G's claim would likely be for nominal compensation and not proportionate to pursue.

So, it's clear Firm A's advice to RSA was Mr G's complaint was without the required prospects of success.

RSA is entitled to rely on the legal advice it is provided with – unless that advice is obviously wrong. But from what I've seen it was reasoned legal opinions from qualified individuals. And from what I've seen Firm A commented on all of the available evidence, so I've seen nothing that persuades me RSA should've determined this wasn't correct to rely upon. So, I'm satisfied RSA acted reasonably in relying on its advice.

I'm also satisfied RSA it's engaged with Mr G as I'd expect. RSA has offered Mr G the opportunity to provide opposing legal opinion and said it would reconsider the matter if he did this on many occasions. This is in keeping with the policy terms and I think this was fair in the circumstances. And as Mr G hasn't provided any legal opinion to this service or to RSA that suggests otherwise, and has been clear he won't obtain anything further, I wouldn't expect RSA to change its mind.

I understand Mr G believes the evidence he's obtained (which isn't a legal opinion on prospects) should make it clear that his case should succeed regardless, and therefore he's not sought any conflicting legal opinion. But as I've outlined above, my decision doesn't concern the advice of Firm A, only the actions of RSA in relying on that advice. So this hasn't changed my mind.

My final decision

For all of the above reasons, I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 15 September 2025.

Jack Baldry
Ombudsman