DRN-5694222

Financial Ombudsman Service

The complaint

Ms C's complaint is about a claim she made on her ARAG Legal Expenses Insurance Company Limited legal expenses insurance policy.

Ms C says ARAG treated her unfairly.

In this decision, all references to ARAG include their claims handlers.

What happened

In July 2024 Ms C made a claim on her ARAG legal expenses insurance policy for cover to bring an employment claim. The deadline for filing the claim at Employment Tribunal was six days after initial contact with them.

Ms C wanted ARAG to protect her position so called for updates a couple of times but didn't receive a response. As such she instructed her own Solicitor to file the claim for her.

The day after the employment claim needed to be filed, ARAG assessed Ms C's claim for legal expenses insurance and spoke to her to discuss the process for instructing her own Solicitor to work for her under the terms of the policy. In doing so they confirmed they would only pay £100 per hour in respect of their costs.

Around two weeks later Ms C called to discuss her claim with ARAG who explained they were waiting for her Solicitor to return an assessment on the merits of her claim. Ms C's Solicitor returned this the following day, after which ARAG asked for further information. After this was supplied ARAG provided Ms C's Solicitor with their terms of agreement which set out they would only pay them £100 per hour in respect of their costs. Ms C was unhappy with this. She said her Solicitor wasn't prepared to work on that hourly rate and wanted ARAG to increase the sum payable to them.

ARAG refused and referred to their terms which they said they drew to her attention at the outset. They gave Ms C the option to either top up the hourly rate, nominate a different firm who were prepared to act at the agreed rate or agree to the appointment of a panel Solicitor.

Ms C was in principle happy with the appointment of a panel Solicitor on the basis she would be given the name of a specific Solicitor she could vet and determine whether they were suitably qualified to take on her claim, but ARAG couldn't provide her with this service. She continued to instruct her own Solicitor privately to deal with her claim, which was due to be heard at Tribunal in August 2025.

Overall Ms C is unhappy with the level of service she received from ARAG and the hourly rate offered by them to her own Solicitor. Equally she's unhappy that she was not provided with the details of a specific panel Solicitor she could assess to decide whether she wanted to instruct them.

ARAG issued two final response letters. They accepted that the service they provided Ms C with fell below what they would expect. They acknowledged that they didn't call her or her

Solicitor back when they said they would and that Ms C had to chase them several times. ARAG also accepted there was a slight delay on their part in reviewing correspondence from Ms C's Solicitor within their five-day service standards. As such they offered Ms C a total of £175 in recognition of the poor service they'd provided. They did not however consider they'd done anything else wrong.

Our investigator considered Ms C's complaint and concluded it should not be upheld. Ms C does not agree so the matter has been passed to me to determine.

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.

Having done so, I don't uphold Ms C's complaint for broadly the same reasons set out by the investigator. Before I explain why, I wish to acknowledge the volume of submissions Ms C has made. Whilst I've read everything she's said, I won't be addressing it all. That's not intended to be disrespectful, rather it's representative of the informal nature of the Financial Ombudsman Service. Instead, I'll stick to the crux of this complaint, namely whether ARAG treated Ms C fairly. Ms C should also note that I can't address any new submissions or evidence supplied that ARAG hasn't had the opportunity to consider and respond to. If she remains concerned about any matters that weren't already put to ARAG when she raised her complaint with them, she's entitled to complain about those separately.

Initial submission of claim

Ms C is unhappy that ARAG didn't deal with her claim urgently when it was submitted and arrange for her it to be filed by the deadline at Tribunal. I can see that ARAG were notified of Ms C's claim on 24 July. The ET1 needed to be lodged by 30 July to meet the deadline. Whilst I can see that Ms C did call ARAG on 26 and 29 July to chase them, I wouldn't have expected ARAG to have been in a position to arrange for her claim to be filed by the deadline required. I say so because legal expenses insurance claims require a two-step validation process. ARAG needed to establish firstly whether the claim fell within the policy terms generally and thereafter obtain legal advice to determine whether it had reasonable prospects of success, as required by the policy. Whilst I appreciate the urgency Ms C was facing, it's not reasonable to expect a legal expenses insurer to carry out all those assessments and arrange for a claim to be drafted and filed in just six days. So, I don't think that ARAG did anything wrong here and given the delay in making the claim, it was up to Ms C to protect her position and either file the claim herself, or instruct Solicitors to do so privately, as she did in this case. So, I don't agree that ARAG were to blame for the costs she incurred in instructing Solicitors here.

I can see that ARAG did arrange to call Ms C back on 29 July to discuss the matter with her but were unable to reach her. I don't think this was unreasonable and in line with their service standards given the date on which they received her claim.

Appointment of Solicitor

Ms C is unhappy with the costs she incurred in her Solicitor corresponding with ARAG when the rate offered to them was in their view untenable. From what I've seen ARAG made Ms C aware of the rate they'd offer her Solicitor in their initial phone call with her. So, this wasn't information she wasn't already aware of. And the policy terms do set out that ARAG will only pay £100 per hour in respect of her own representative's costs, which may vary from time to time.

I appreciate that Ms C doesn't feel this information was presented clearly within the policy terms in that it was not set out prominently. But I don't think it needed to be. We wouldn't expect a policy term to be highlighted unless it was significant or onerous. In my view that would only be the case if it would render Ms C's freedom of choice meaningless, and in this case, I don't think it does. In determining this is we consider whether there are both panel and non-panel firms available to take on cases like Ms C's and whether they have done so before at the rate offered. ARAG offered Ms C the choice of no less than six panel Solicitors able to take on her claim at the agreed rate. They have also provided this Service with persuasive evidence that they have worked with non-panel Solicitors in the past on similar claims for the same rate. Because of this I am not satisfied that Ms C's freedom of choice has been fettered here.

Ms C has said she was not provided with details of the non-panel Solicitors appointed by ARAG on similar matters so that she can investigate them herself. We wouldn't generally disclose this information to a policyholder, and neither would ARAG as it is usually considered to be commercially sensitive. ARAG understandably do not wish to be seen to be recommending firms that they have funded in the past. Because of this, I don't think it's appropriate for Ms C to be provided with these details and they don't in any event assist her in her pursuit of this complaint in any way. But given the evidence I have seen from ARAG, I'm not satisfied that Ms C's freedom of choice been fettered. And her reference to the guidelines for hourly rates of Solicitors makes no difference to the outcome of her complaint about the rate being offered by ARAG to non-panel firms.

I turn now to Ms C's complaint that ARAG failed to provide her with the name of a suitably qualified Solicitor who she could vet to determine whether she wanted to instruct them. I've considered what she's said and what has been offered to her by ARAG, but I'm not persuaded that their actions amount to wrongdoing, such that ARAG have breached their obligations to her. Rather I think ARAG have been more than reasonable. They've offered Ms C a choice of six panel firms. At that point it is the matter for the panel firms to determine who they have available to assist Ms C. As long as they are suitably qualified and experienced in the area of law that Ms C is asking for assistance with, we wouldn't say that ARAG has done something wrong. And I don't think that ARAG needed to provide her with the name of an individual Solicitor to vet herself. ARAG are an insurer providing legal expenses insurance cover not legal services. In doing so their role is to provide access to legal professionals that can act under the policy terms, but they can't dictate how that is conducted. That's a matter for the panel firms to determine themselves. And it isn't for Ms P to decide the identity of the Solicitor to be appointed. That's not the purpose of the cover and not something she's entitled to as part of it. Ms C appointed someone she chose. ARAG didn't need to offer that Solicitor anymore than the £100 per hour set out by the policy terms. That's because they've been able to demonstrate that non panel firms can act for that fee on similar claims.

Ms C has said that the policy terms do allow for ARAG to pay more than £100 per hour on her claim and that it was unreasonable for them not to do so in this case. I accept that there are circumstances in which an insurer should vary their standard terms, like where a case is so complex that a very specialist Solicitor is required to deal with it where others aren't. I've considered what Ms C says about the complexity of her case. I've reviewed the details of her claim, but I'm not satisfied that the legal issues within it are such that they would be considered to be so unusual or complex that they couldn't be dealt with a specialist employment lawyer with experience in disability discrimination cases. As such I don't think ARAG did anything wrong by not offering to pay Solicitors costs over the £100 per hour set out in their terms.

I understand that Ms C wants her Solicitor's costs to be funded by ARAG but for the reasons I've explained, I don't think that's reasonable. She was given the opportunity to receive a contribution to those costs but given she didn't accept that, and ARAG haven't been involved in litigation at all, I can't say they need to do anything further.

Service failings

Like ARAG, I accept that there were a number of service failings on their part in the ways that they've acknowledged. I don't however consider that these matters amount to a significant award of compensation or have led to prejudicing Ms C more generally than the stress and inconvenience she suffered at the time. I say so because these failings make no difference to the matters complained of by Ms C above and the position remains that ARAG would not in any event have funded the costs she's seeking from them. So whilst the matters complained of were an annoyance and led to some stress and inconvenience, I think the amount they've offered her is reasonable and in line with awards we would make in similar circumstances. If Ms C hasn't already accepted that amount and wishes to do so, she should contact ARAG directly.

My final decision

For the reasons set out above, I don't uphold Ms C's complaint against ARAG Legal Expenses Insurance Company Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms C to accept or reject my decision before 24 September 2025.

Lale Hussein-Venn
Ombudsman