

## **The complaint**

Mr G, as a representative of the estate of Mrs G, complains that INTACT INSURANCE UK LIMITED (Intact) unfairly declined a claim on a legal expenses insurance policy.

Mr G (Mrs G's son) refers the complaint on behalf of Mrs G's estate. He was the point of contact throughout the claim and complaint. I'll refer in this complaint to Mr G, but where necessary this should be taken to include the estate of Mrs G.

Similarly, a claims handler was appointed by Intact to assess the claim and respond to Mr G's complaint. Where I refer to Intact within this decision, this should be taken to include the representative acting on its behalf where appropriate.

## **What happened**

Mrs G, prior to her passing, held a legal expenses insurance with Intact, as an add-on to a home insurance policy. After her death, Mr G contacted Intact with a view to making a claim under the legal expenses cover as he believed Mrs G hadn't been properly supported when making an application for care funding.

Intact said the policy didn't cover expenses for the legal action Mr G was proposing. It maintained that position during the course of further correspondence with Mr G about the cover provided by the policy.

After it rejected his complaint about the claim decision, Mr G contacted our service. Our investigator thought Intact had acted fairly. Mr G didn't agree and asked for an ombudsman's 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.

Before I address the substance of Mr G's complaint, I need to acknowledge that Mr G's made a number of points about the policy itself, commenting on its suitability and design, particularly given Mrs G's vulnerability and circumstances. While I note these points, the complaint submitted to Intact focussed on the decision to decline cover for the claim. Any complaint about the suitability of the policy, the extent of the cover included or sales process, is separate from this and should be directed to Intact in the first instance.

Mr G has also made further comments about the level of care Mrs G received at her care home before her passing, and the conduct of individuals working there. That is also separate from the claim he made to Intact, which was about assistance in making a funding application.

I similarly note Mr G's comments around Mrs G's vulnerability during the material time when the matters related to the claim occurred. She was suffering from ill health, recently widowed and had moved into a care home a significant distance from her previous home. While

insurers are obliged to consider the vulnerability of their policyholders when dealing with claims or the administration of policies, that doesn't extend to providing cover for a vulnerable policyholder's claim where it would not otherwise be in force.

With all this in mind, I'll move on to what I consider to be the main focus of this complaint – whether it was reasonable for Intact to decline cover for the claim submitted by Mr G on Mrs G's policy. While I may not address every point made by Mr G in his submissions to both Intact and our service about why he thinks the claim should be covered, this is because my role here is to determine whether the decision to decline cover for the claim was fair and reasonable. I have considered all of the points made by Mr G.

When making a claim on any insurance policy, the onus is on the policyholder (or their representative) to show that a relevant section of cover provided by the policy applies to the circumstances of the claim. If they can do so, but an insurer believes an exclusion applies, then the burden of proof shifts to the insurer to demonstrate that the exclusion reasonably applies.

What that means here is that it's for Mr G to show that the circumstances of the claim mean that the policy covers the circumstances of the claim – not that it should be covered, but rather that the legal action he wants Intact to fund falls within the disputes outlined in the policy's terms and conditions.

When Mr G submitted the claim, I think Intact made a reasonable inference that Mr G wanted to take legal action against a local authority who he believed had failed his late mother in respect of a care funding application. I say this based on the claim form he completed at the outset of the claim, which said (in part) "I believe the council has a duty of care to facilitate timely (care funding) claims... In my mother's case access was effectively obfuscated and (when refused to consider to the application retrospectively) unreasonably denied. I understand that there may be a significant number of others affected by this issue." I further note that Mr G indicated the party he wished to take action against was the local authority and included the wording of the complaint he'd made to that local authority, which had been rejected.

Intact responded, declining cover for the claim, and noted a specific exclusion in the policy for group legal action. Its basis for doing so was Mr G's suggestion that "there may be a significant number of others affected by this issue."

Intact's acknowledged that its initial response to Mr G was inadequate. It didn't properly detail why the claim wasn't covered, and referenced the potential group action without evidence of there being other litigation or individuals seeking to take legal action for the same issues. It seems to be accepted that it should have been clearer in this letter to explain the reasons why the claim wasn't covered. I think it would have been reasonable to highlight the group action exclusion, but note that more information around this would have been needed.

However, I can't say this error had any material effect on Mr G's belief that the claim should be covered, or response to Intact. I say that because following that letter, Mr G engaged in detailed correspondence outlining why he believed the claim should be covered and has continued to make these (and additional) points in submissions to our service. I can't say the initial letter declining cover would have changed any of Mr G's responses or approach to the claim if it had properly detailed why the claim wasn't covered.

Mr G's position is that the claim should be considered either as a contractual or residential dispute. The policy provides cover for both of these.

The terms and conditions detail that cover is available under the residential section for:

“The cost of you or any of your family pursuing legal action against another person or organisation within the territorial limits as a result of:

- A person or organisation interfering with you or any of your family’s legal rights relating to the possession or ownership of your home...
- Encroachment on your boundary;
- A dispute over a right of way to your home;
- A dispute about a right of way over land belonging to your home.
- A dispute over a contract in your name to buy or sell your home or former home or to rent your home as a tenant.
- An event which reduces the value of your home where you own your home rather than rent your home as a tenant which concerns for example, a private nuisance.
- An accident caused by or the acts or omissions of a third party where the damage is not covered by a household or other insurance policy covering your home.”

The nature of the dispute here, relating to an alleged lack of support given during a funding application for care home provision doesn’t fall within any reasonable interpretation of the disputes which are covered by this section of the policy. There’s nothing to suggest there was any implication or effect on Mrs G’s ownership of her property as a result of the funding application. The other listed disputes could have no connection at all to a funding application.

I further note the policy terms and conditions say that the dispute has to be about “your home, which is defined as “The house, bungalow or flat at the address shown on your Policy Schedule, its outbuildings, including attached and detached garages, annexes, conservatories, sheds and greenhouses.” There’s no dispute that the “home” address in the policy schedule is the address where Mrs G lived before she moved into the care home.

It therefore follows that the policy only provides cover for legal expenses relating to residential disputes relating to the insured property. The dispute around support for funding has no connection to her previous address, and so there’s no cover available in this section of cover.

Turning to the contract disputes section, over the course of correspondence with Intact, it’s accepted that Mr G widened the scope of his claim beyond the local authority to include the support (or lack thereof) given to Mrs G by the care home when she made the funding application.

The policy says there’s cover for “The cost of you or any of your family pursuing a legal action against another person or organisation as a result of:

- A contract you or any of your family have made within the territorial limits to:
  - i) Buy, sell or rent consumer goods; or
  - ii) Buy or rent services or digital content

I think it’s fair to say that if Intact is to be asked to fund legal action under the contract dispute section of cover, there needs to be a contract in place for the relevant disputed matter. That means there would need to have been a contract in place between Mrs G and the local authority and/or the care home to support her with the funding application.

No evidence has been provided to show that Mrs G entered into any contract with the local authority to support her with the funding application.

Mr G believes that a contract did exist between Mrs G and the care home to support her in

the funding application. He acknowledges that the terms and conditions of her care didn't include this, but points to advertising on the care provider's website about the support available to residents in making funding applications. However, on reviewing this I can't identify anywhere where a promise is made that as part of someone's residence in the care home, they will support and assist with funding applications. Indeed, a specific reference is made to recommending seeking proper advice around care funding applications. I think Intact fairly concluded that the advertising around funding applications didn't constitute a contract between Mrs G and the care home.

In any case, any agreement around supporting the application process would only fall within the cover for buying, selling or renting goods if Mrs G had been paying specifically for that support or advice. There's no evidence this was the case. While Mr G makes reference to possible breaches of various rights, the cover only provides for disputes relating to the buying, selling or renting of goods or services. I can't agree there's any evidence of Mrs G entering into any contract of this nature to provide support in making the funding application.

On balance therefore, I can't say that Mr G has demonstrated that there was any contract in place between Mrs G and any other party to support her funding application. That means that the cover for contract disputes doesn't apply.

There's no suggestion that any other section of cover outlined in the policy applies to the circumstances of the claim. As no section of the policy provides cover for this matter, Intact acted reasonably when it declined to fund the legal action Mr G sought to take.

### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mrs G to accept or reject my decision before 7 January 2026.

Ben Williams  
**Ombudsman**