

## **The complaint**

Mrs A and Mr A complain Aviva Insurance Limited unfairly declined a claim made on their legal expenses insurance (LEI) policy.

Any reference to Aviva includes the actions of its agents and claims handlers acting on its behalf. Because Mrs A is the policyholder and the complaint is about a claim she made, for ease of reading, I'll refer to her throughout my decision.

## **What happened**

In December 2024, Mrs A made a claim on her LEI policy to pursue an employment dispute for disability discrimination, harassment, and victimisation (claim 1). She subsequently resigned from her role in January 2025 and returned to Aviva to make a further claim for constructive dismissal (claim 2).

Aviva declined both claims saying the series of events leading to Mrs A's legal disputes started in July 2022, when she returned to her role on a phased return following a period of absence for ill-health. It said as this was before the policy started in May 2024, the claims weren't covered.

Mrs A said Aviva's decision was unfair because the incidents leading to her claims were within the period of cover. She said the unfair promotion of colleagues occurred in July 2024, and the handling of her grievance appeal between November 2024 and December 2025, together with her employer not sharing documents with her and commencing disciplinary proceedings led to her resignation in January 2025.

Aviva didn't change its position and so, Mrs A brought a complaint to this Service. An Investigator considered it but didn't uphold it. He said whilst Mrs A might have resigned due to events which occurred when the policy was in force, these were still the result of matters which had been ongoing prior to inception. So, he was satisfied Aviva's decision to decline the claim was fair.

Mrs A has requested an Ombudsman's decision. She made a number of points, including:

- The insured event for claim 1 is the denial of a promotion on discriminatory grounds in July 2024. Mrs A says this occurred two months after cover started and was not foreseeable at the time of inception, nor was it the subject of any ongoing dispute, grievance or disciplinary issue at the time.
- Claim 2 is based on constructive dismissal and arose from her employer's actions in December 2024 where it initiated disciplinary proceedings whilst Mrs A was medically unfit. Mrs A says there was no live dispute when the policy was purchased, and no complaint, grievance, or claim had been made or was reasonably foreseeable.

## **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 all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

The relevant industry rules require Aviva to handle claims promptly and fairly, to support policyholders when making a claim, and to not unreasonably reject a claim. I've kept this in mind when considering Mrs A's complaint.

The policy includes cover for employment disputes. But cover is only provided where the dispute is during the period when cover is in force. This is reflected in the policy document which under "What is not covered" says:

*"Disputes with your employer which commenced before or within the first 30 days of this cover starting unless you had a similar policy which finished immediately before this cover begun".*

Under "Legal Expenses Conditions & Exclusions" the policy says:

*"We will not pay for: a) Any claim we reasonably believe you knew was likely to happen when you took out this insurance e.g. where you were already in a disciplinary process at work before taking out this policy, which then led to you making a claim.*

*[...]*

*d) Claims where the initial dispute or series of incidents leading to a claim on this policy happen before this cover starts or after it comes to an end as shown on your schedule."*

So, where an incident, which gives rise to a legal claim, occurs before the start of the policy and is connected to a later incident (during the period of cover), cover won't be provided.

So, Mrs A needs to show the disputes began after she took out the policy in May 2024 for them to be covered, and that when the policy started, she wasn't aware of anything that was likely to lead to a claim. And to decide when the disputes began, I need to look at when the first incident took place.

#### Claim 1

Mrs A says the relevant incident date for claim 1 is July 2024, as this is when she says less experienced colleagues were promoted and she wasn't.

In her grievance to her employer in July 2024, Mrs A says that since her diagnoses and treatment, she'd faced significant discrimination, harassment and unreasonable treatment from her employer. I understand these diagnoses happened in 2021 and that Mrs A returned to employment in the summer of 2022 on a phased return basis, before reducing her working hours later that year.

Mrs A describes that from July 2022 onwards she was not allocated specific work because she wasn't available every day. And she says how, in a mid-year review meeting, she expressed concerns about being overlooked for work. These incidents were followed by a meeting with her manager in December 2023 where she expressed concerns about being "managed out" and the unfairness of the ratings she'd been given at her mid-year review.

Furthermore, Mrs A describes that “persistent discrimination and harassment” has “culminated in significant and progression detriment”. So, whilst I acknowledge the incident in July 2024, namely, the promotion of colleagues, led to Mrs A making a legal claim, I’m not persuaded, given the events which preceded this, it can reasonably be considered an isolated incident. Given the persistent and enduring issues Mrs A describes, on balance, I’m satisfied this was all a series of connected events, and that Mrs A already felt she was being treated unfairly before the policy started.

So, I find Aviva has reasonably concluded there were earlier incidents - predating the policy - which led to claim 1, and so, the policy doesn’t cover the legal claim.

## Claim 2

Mrs A says the relevant dates for claim 2 are from November 2024 to January 2025 when her employer initiated a disciplinary process whilst she was medically unfit; carried out a procedurally flawed grievance appeal; and didn’t share key documents to do with her grievance with her. Mrs A says the claim for constructive dismissal wasn’t foreseeable when she took out the policy.

I recognise the immediate trigger for Mrs A’s constructive dismissal claim was her employer’s decision to begin disciplinary proceedings in December 2024 whilst she was signed off work. Mrs A says this was the “last straw” and led to her decision to resign. She says this is, therefore, the relevant incident and considering it as such would be in line with how the courts consider constructive dismissal claims. But this Service’s role is to consider how the insurer has dealt with the claim on the policy, not how a tribunal/court would deal with her legal claim.

From what I’ve seen, whilst Mrs A’s decision to resign was in response to matters escalating in November 2024, this was still, ultimately, the culmination of a dispute which had been ongoing since her return to role in 2022. As mentioned above, Mrs A had concerns about being “managed out” in December 2023 and has made it clear her phased return and working hours weren’t being respected by her employer from when they were put in place in 2022.

So, I’m satisfied it was reasonable of Aviva to conclude her claim for constructive dismissal was the result of a long running dispute which began when Mrs A returned to work in 2022 and was unhappy with how her employer had treated her from that point onwards. Because the series of incidents leading to the claim happened before the cover started, I find Aviva has reasonably said the claim isn’t covered.

I recognise my decision will be very disappointing for Mrs A. I’m aware of the immense difficulties she’s faced and continues to with her health and financial situation. And I don’t underestimate the stress she says she’s experienced because of her employment dispute and legal claims. But my role is to decide if Aviva’s decision to decline the legal claims is both in line with the policy terms and fair and reasonable in the circumstances. I find it is. So, I’m not upholding this complaint.

## My final decision

My final decision is I don’t uphold this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mrs A and Mr A to accept or reject my decision before 23 October 2025.

Nicola Beakhust  
**Ombudsman**