

## **The complaint**

Mr B complains that Financial & Legal Insurance Company Ltd declined a claim on his legal expenses insurance policy.

Where I refer to Financial & Legal Insurance Company Ltd, this includes its agents and claims handlers acting on its behalf.

## **What happened**

Mr B has legal expenses insurance, which is underwritten by Financial & Legal. The policy includes a legal helpline, which Mr B can call to get general legal advice. If appropriate, he can refer a claim to Financial & Legal for solicitors to be appointed to act for him.

Mr B is a tenant of his flat, which he rents from the local council. His neighbours are leasehold owners of their flat. He called the helpline about pursuing a claim against his neighbours for harassment and nuisance. This was referred to Financial & Legal but it said he would not be covered for this because the disputes with his neighbours had been ongoing for two years, and the policy didn't cover something that started before he took out his policy.

Mr B disagreed. He said the policy doesn't cover incidents that happened before the policy started, but his claim was about new incidents that had only happened after he took out the policy.

Financial & Legal didn't change its decision and when our investigator considered the complaint, they said it was reasonable not to cover the claim, as the dispute had begun before the policy started.

Mr B also wanted to pursue a claim against the council, which he said had told him to stop using his balcony. Financial & Legal initially said it hadn't received a claim about that, but later agreed Mr B had raised this but it had been overlooked.

Financial & Legal said it had now considered this, but there was no cover as the policy excluded any claims about restrictions or controls placed on his property by any government or local authority, unless the claim is for accidental damage.

Our investigator thought it was fair for Financial & Legal to decline this claim as well. Mr B disagreed and requested an ombudsman's decision.

I issued a provisional decision saying I was minded to uphold the complaint. I set out my reasons as follows:

## **My provisional decision**

The relevant industry rules and guidance say insurers must deal with claims promptly and fairly, support a policyholder to make a claim, and not unreasonably reject a claim.

Having considered the policy terms, I don't think it was reasonable to decline Mr B's claim in relation to his neighbours, for the following reasons:

- The policy provides cover for certain types of legal disputes. This includes claims for nuisance or trespass, which would potentially cover Mr B's dispute with his neighbours. But – as with all insurance – cover is subject to the policy terms and conditions.

- Financial & Legal has relied on an exclusion which says there's no cover

*"for an incident which:*

...

- *did not occur during the period of insurance..."*

- Financial & Legal declined the claim on the basis the dispute started before Mr B took out the policy. However, the policy wording doesn't refer to when the dispute started. It simply says there is no cover for an incident which didn't occur during the period of insurance.
- Some policies refer to the "date of occurrence", which must be during the policy period. And they define what that means, perhaps referring to a "series of events", to make it clear that an ongoing series of events, which started before the policy was taken out, would not be covered. That's not the case here. As I've said, the policy wording just says there's no cover for incidents that happened outside the policy period.
- As a general rule, when interpreting policy terms the words should be given their ordinary meaning. Applying the ordinary meaning of the words in this term, it follows that any incident that happened before (or after) the policy period is not covered, but an incident that happens during the policy period is covered.
- If Mr B wishes to pursue a claim relating to incidents that happened during the policy period, I don't think it would fair to decline this. So Financial & Legal should reconsider this claim.
- That doesn't necessarily mean the claim will be covered. It may be necessary to consider, for example, whether there are reasonable prospects of success. But this claim will need to be assessed properly in line with the remaining policy terms.

With regard to the claim against the council, there is a clear policy exclusion for claims relating to restrictions placed on Mr B's property by a local authority. He says the council prevented him from using a balcony. In the circumstances, that exclusion would apply and I think it would be fair to rely on it to decline this claim.

### **Replies to the provisional decision**

Mr B has replied to say he accepts the provisional decision.

Financial & Legal does not agree with the provisional decision and has provided further comments. I won't set them out in full but the key points include:

- This is an 'after the event' policy and only covers disputes that happen while the policy is in force, not disputes that have already happened.
- Mr B wanted cover for a long-standing campaign of nuisance, harassment and damage to his property; he explained that the issues had been ongoing for around five years. The incidents he described were consistent with the longstanding dispute.
- He also wanted to claim damages for distress. This wouldn't be covered as the policy terms exclude any illness which happens gradually or is not caused by a specific or sudden event; and any psychological injury or condition, unless this is in conjunction with a claim for physical injury at the same time.

- In any event, all the issues concern an ongoing dispute that started before Mr B bought the policy.
- The policy doesn't include a term referring to the date of occurrence, but that doesn't mean it was wrong to decline the claim. The policy is meant to provide cover for something that happens during the policy period. There may be an exception if the policyholder wasn't aware of the issue before the policy started, but the policy doesn't provide cover for longstanding, ongoing disputes that the insured knew about.

### **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.

Mr B has accepted it was fair to exclude the claim against the council. I don't need to say anything further about that.

I have considered the further comments from Financial & Legal about the claim against the neighbours, but these don't persuade me to reach a different conclusion.

I appreciate Financial & Legal says the policy is meant to cover things that happen while the policy is in force, not disputes that are ongoing before the policy starts, but when considering whether its decision is fair, the starting point is the policy terms - these set out the basis of the agreement between the insurer and the policyholder.

In this case, the relevant term simply says there's no cover for an incident which didn't happen during the period of insurance. It refers to an incident not a dispute; and there's no reference to when a dispute may have started.

The policy doesn't define "incident" so that needs to be given its ordinary meaning. And applying the term as it's written, there is no cover for any incident that doesn't happen during the policy period – but there will be for an incident that does happen during the policy period.

So Mr B is not covered for any claims relating to past events, but if he is claiming for incidents of nuisance, harassment or damage that happen while the policy is in force, he is potentially covered.

If Financial & Legal wanted to exclude claims such as this, it could have made that clear in the policy wording, for example by referring to ongoing disputes or a series of events, as many policies do.

As I said in the provisional decision, that doesn't necessarily mean the claim is covered, simply that it's not fair to exclude it for this reason.

Financial & Legal should consider the claim regarding the neighbours again, ignoring this exclusion, in line with the remaining policy terms.

### **My final decision**

I uphold the complaint and direct Financial & Legal Insurance Company Ltd to reconsider Mr B's claim in relation to his neighbours in line with the remaining policy terms.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 13 November 2025.

Peter Whiteley  
**Ombudsman**