

The complaint

Mr T is unhappy with what Aviva Insurance Limited did after he made a claim on his legal expenses insurance policy.

What happened

In September 2024 Mr T sought assistance from his policy with a contractual dispute. After obtaining further information Aviva referred the matter to a panel solicitor. They were unable to assist due to a conflict. Aviva asked a different panel firm to assess the claim. They were also conflicted. Aviva said it didn't have other firms in Mr T's part of the country (Scotland) who could assist. It said he could appoint his own firm.

Mr T said under the terms of his policy it was Aviva's responsibility to provide him with a solicitor and that appointing his own firm in a previous claim had been detrimental to it. He said if Aviva wasn't able to do that it should provide compensation to the value of his claim.

Aviva said as it didn't have an available panel firm it acted fairly in asking Mr T to provide the name of a firm he wanted to use. Our investigator agreed that was appropriate. If Mr T then had difficulties in finding his own solicitor the position might be different. However, he hadn't evidenced that. He didn't think there was anything more Aviva needed to do.

Mr T didn't agree. He said:

- The terms of his policy were clear it was for Aviva to appoint a solicitor and he didn't need to find his own. It didn't entitle Aviva to disclaim responsibility for doing so. This policy wording was a key reason why he selected this cover over alternatives.
- It wasn't appropriate for him to appoint his own solicitor as when he'd done that in a previous claim Aviva had been unable to properly manage it or ensure it was progressed. And there had been prolonged delays by Aviva in progressing this matter.

So I need to reach a 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.

The relevant rules and industry guidelines say Aviva has a responsibility to handle claims promptly and fairly. It shouldn't reject a claim unreasonably

I've looked first at the terms and conditions of Mr T's policy. That does say *"If your claim is accepted we will provide you with a lawyer who specialises in the law relating to your claim. You do not have to find your own lawyer as we have access to a range of leading expert lawyers waiting to help you"*. The policy goes on to explain the benefits of using a lawyer from one of Aviva's approved firms. And Mr T says this is something that was important to him when he took cover out.

However, in this case Aviva did ask two of its panel firm to assist with the assessment of Mr T's claim. Both were conflicted. And Aviva didn't have another panel firm in Scotland who it could then appoint. So it simply wasn't able to comply with the terms and conditions of the policy. I agree with Mr T that, as that was the case, it wouldn't be fair or reasonable for Aviva to disclaim responsibility for the appointment of a solicitor. I'd expect it to take reasonable steps to ensure Mr T wasn't disadvantaged because it couldn't appoint a panel firm.

In this case I don't think it was unreasonable of Aviva to suggest, in the first instance, that Mr T appoint his own solicitor to ensure the claim progressed. If he wasn't able to do that or had other difficulties in finding a suitable firm I'd have expected Aviva to provide further assistance. But it's not clear Mr T made any efforts to appoint his own firm; his subsequent contact with Aviva focussed on why he didn't think he should have to do that but didn't suggest he would have any difficulties in doing so.

In that further contact Mr T said he didn't want to appoint his own firm because doing so on a previous claim had prevented Aviva from carrying out effective management of it. But whether a claim is progressed by a panel firm or a policyholder's own solicitor once they're appointed an insurer isn't normally involved in the running of the underlying claim; its role is generally limited to funding the fees and disbursements.

Nevertheless, where a policyholder raises concerns about the solicitor representing them we do expect an insurer to look into the complaint (even if that's limited to raising the concerns with the solicitor and providing an answer to the policyholder). But that would apply whether a panel or non-panel firm was involved. In fact there might be more of a responsibility on Aviva to take proactive steps to ensure progression of the claim in this case because the only reason for the appointment of a non-panel firm would have been that Aviva was unable to appoint an approved firm.

However, as Mr T hasn't provided details of his own firm to Aviva (or indicated he would have any problems in finding one) that issue hasn't arisen in this claim to date. So while I agree Aviva wasn't able to act in line with the policy terms (which do say it will appoint an approved firm to progress the claim) I think in the circumstances of this case it took appropriate steps to ensure the claim moved forward. In the absence of evidence from Mr T showing he was unable to find an alternative firm I don't think it needed to do anything more.

Mr T also says there were delays by Aviva in progressing this claim. However, as our investigator said that doesn't appear to be something he raised with Aviva. And it would need an opportunity to respond to this complaint point before we could consider it. So I won't be commenting on that in this decision.

My final decision

I've decided not to uphold this complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 6 February 2026.

James Park
Ombudsman