

The complaint

Mr T complains that QBE UK Limited (QBE) unfairly settled a claim on a professional indemnity insurance policy without his knowledge or consent.

What happened

Mr T, when he was trading as a solicitor, held a professional indemnity insurance policy with QBE. He'd written to a former client requesting payment of costs for work done, but was informed that the client had made professional negligence claims. QBE had made a settlement in respect of these claims. The settlement stated that any right to claim costs was waived.

Mr T contacted QBE. He said he had no knowledge of the claims, and hadn't been informed of the settlement, or agreement that the outstanding costs wouldn't be pursued. QBE said that the terms and conditions of the policy said it could take over and settle any claim made on the policy. However, it did acknowledge that Mr T should have been informed of the claims, and the settlement. It said it was prepared to make a payment in respect of the costs which Mr T had sought to recover.

Mr T didn't accept this and contacted our service. Our investigator believed QBE's actions were reasonable, and its offer in relation to the costs was fair. Mr T doesn't agree and has 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.

I know how strongly Mr T feels about this matter, and he's made a number of points about why he considers QBE's actions were unfair, and why our investigator's assessment was incorrect. While I may not comment on each point, I have considered all of the information provided in reaching my decision.

QBE was contacted by solicitors representing Mr T's former client, who outlined two claims for professional negligence. These related to Mr T's actions in conducting proposed legal action on behalf of the client. On receipt of the claims, the evidence of emails between QBE and its representatives indicates QBE considered there were limited prospects of resisting the first claim. It was considered that the second claim could be challenged but due to the value of it and other factors relating to Mr T's alleged conduct, QBE considered it was prudent to settle.

Where an insurer makes a decision to settle a claim, rather than resist it, I'm not minded to say it acted unreasonably, unless there is some obvious factual error in its assessment. This is particularly the case where it's made that decision on commercial grounds.

Part of the settlement stated "The defendant waives any entitlement to the defendant's costs. Neither the defendant nor the defendant's insurers will pursue the claimant for the

defendant's costs at any time hereafter."

QBE's position is that it doesn't believe it would have been possible to agree the settlement without including this waiver. It acknowledges that, as with the notification of the claims, it should have informed Mr T, but didn't. It isn't disputed that Mr T wasn't informed of the claims at any stage and so wasn't given the opportunity to provide evidence or dispute the allegations set out in the claims.

Mr T believes that if he'd been able to pursue the claimant for the costs, and taken legal action he'd have recovered more than the unpaid costs as a court would have awarded interest at a rate of 8% per year. He asked QBE to pay interest on the amount originally claimed (in addition to damages).

To put things right, QBE's offered to make a payment equivalent to the total costs Mr T sought from the claimant of just under £12,000. It's outlined the process that would need to be followed to allow it to make that payment, as there are other matters (not directly relevant to this decision) which mean it may not be possible to make the payment directly to him.

Mr T doesn't accept QBE's offer, and references particularly that it doesn't include interest he believed he'd have been awarded by a court. However, I think it's a fair offer for a number of reasons. The first is that I think QBE's position that a settlement wouldn't have been possible without this waiver to be reasonable. It seems sensible to say that the claimant wouldn't agree to a settlement including a specified amount (payable by Mr T's insurers) if that settlement left open the possibility of Mr T pursuing the claimant for the costs of the legal representation which was the subject of the claims and settlement. I can see that in email correspondence with QBE, the waiving of outstanding costs was specifically referenced by the claimant's legal representatives.

I also have to consider whether Mr T would have been assured of receiving the full costs from the claimant. Given the claims made were for professional negligence, I think it's fair to say that the costs may have been challenged, in whole or in part. That could have meant Mr T either accepting a lower payment, or taking legal action to recover the full costs. While I note Mr T says he'd have been able to represent himself, some costs relating to court fees and expenses would likely have been incurred. There's also the possibility that such action wouldn't have been successful, either leading to a partial award or even none, depending on the circumstances.

So on balance, I think the offer to make a payment of the full amount Mr T sought from the claimants was fair. Mr T wasn't assured of recovering the full amount, or being awarded interest so an offer to pay that amount is reasonable. I also think that, when considering the factors which would have had to go in his favour to be able to recover the costs, the offer made by QBE adequately addresses the impact on Mr T of its failure to notify him of the claim or settlement. Put simply, I can't identify a particular detriment to Mr T of QBE's actions apart from the upset and inconvenience he suffered when told that the claim had been settled without his knowledge. The offer made by QBE properly addresses the impact on him, in my opinion. Given that there were reasons (as I've outlined above) to believe that Mr T wouldn't necessarily have recovered the full amount if he'd pursued the costs (if the waiver hadn't been included in the settlement), then I think the offer to pay the full amount fairly reflects the distress caused by QBE's identified service failings.

My final decision

I don't uphold Mr T's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or

reject my decision before 25 November 2025.

Ben Williams
Ombudsman