

The complaint

Mr J's complaint is about a claim he made on his ARAG Legal Expenses Insurance Company Limited ('ARAG') legal expenses insurance policy, which was declined.

Mr J feels that ARAG treated him unfairly.

In this decision all references to ARAG includes their claims handlers.

What happened

The details of this complaint are well known to both parties, so I won't repeat them here. Instead, I'll focus on giving my reasons for my 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.

Having done so, I don't uphold Mr J's complaint. Before I explain why I wish to acknowledge all of the submissions he's made. Whilst I've read them all I won't be addressing each one individually. That's not intended to be disrespectful. Rather it's reflective of the informal nature of the Financial Ombudsman Service. Instead, I'll focus on the crux of this complaint, namely whether it was fair for ARAG to decline Mr J's complaint in the way that they did.

The starting point is the policy terms. It's a requirement of virtually all legal expenses insurance policies that any intended claim has a reasonable prospect of succeeding. Mr J's policy is no exception. That means his claim needed to have over 51% prospects of succeeding in order for ARAG to cover it.

We don't think this is unfair. Litigation can be expensive. A privately paying customer wouldn't want to bear the cost if advised it is unlikely to succeed or if they're likely to pay more in costs than they are likely to recover. We wouldn't expect a legal expenses insurer to fund claims in these circumstances either.

Where an insurer has declined funding in such a case, it isn't for us to evaluate the merits of the underlying claim. Instead, and as the investigator explained, we look at whether the insurer has acted fairly. So long as they have got advice from suitably qualified lawyers, we won't generally question their reliance on that advice, unless we think it was obviously wrong or based on factual mistakes. ARAG did this.

I'm satisfied that the person advising Mr J was suitably qualified and experienced in the area of law he was asking for help with, and I've seen nothing that suggests the advice was based on factual mistakes.

I appreciate Mr J doesn't agree with the advice he received and that he doesn't feel that there is anything in his policy that limits claims that fall below £1,5000, but that's not something I can consider. If, as ARAG said, he was able to provide an alternative reasoned

opinion from a comparable lawyer then I would have expected ARAG to consider that. But as matters stand, I can't say ARAG did something wrong by relying on the legal opinion they received. Overall, the issue of the £1,500 limit seems to be founded on the legal advice provided in relation to clinical negligence claims and not something that is relevant to the policy terms. Equally the Solicitor's advice was that they couldn't establish the legal tests applicable to a clinical negligence claim, such that the merits of it would amount to over 51%. So, I don't think the matters raised by the firm ARAG instructed are solely in relation to the value of the claim here as contended by Mr J.

I understand the points Mr J has made in response to the investigator's view. In particular he feels that all he needs from ARAG is a Solicitor's letter to help him recover sums from the party he is claiming against, because he feels that liability is already admitted. But that doesn't mean that cover is available for him to do this. Insurance is subject to terms and conditions and in this case his policy requires his claim to have reasonable prospects of success before an insurer will fund any action on his behalf, including corresponding with the third party. I don't think that it was unreasonable for ARAG to have declined to fund Mr J's Solicitors' costs to do this. As things stand Mr J has not been able to demonstrate that his claim is currently capable of cover. That doesn't mean that he doesn't have a claim, but just that ARAG aren't required to fund his costs in pursuing one, whether by litigation or in correspondence only.

My final decision

For the reasons set out above, I don't uphold Mr J's complaint against ARAG Legal Expenses Insurance Company Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 16 January 2026.

Lale Hussein-Venn
Ombudsman