

The complaint

Mr and Mrs L complain about delays and poor communication by ARAG Legal Expenses Insurance Company Limited in relation to a claim on their legal expenses insurance policy.

Mr and Mrs L are joint policyholders but Mr L has dealt with the claim and the complaint, so I'll mostly refer to him.

What happened

Mr and Mrs L made a claim on the policy on 21 May 2024, seeking cover in relation to a dispute with their neighbour. They had the benefit of a restrictive covenant and said the neighbour was in breach of the covenant. Mr L told ARAG there was an urgent deadline, as the neighbour's property was due to be sold at auction on 30 May.

ARAG said it would assess the claim. ARAG wrote to Mr L on 29 May saying a breach of covenant in isolation wasn't an insured event, unless it amounted to a legal nuisance. Mr L was asked to give details of the breach of covenant and the impact on them. ARAG also asked for further documents.

On 21 June 2024 Mr L called again and said didn't want to proceed with the claim. He then complained that because of delays by ARAG, they had been forced to instruct solicitors and incur legal costs of around £5,000, which they wanted to claim back.

In its response to the complaint, ARAG accepted there had been some delays but said these were very short. It offered compensation of £50. Mr L wasn't happy and referred the complaint to this Service.

The claim was reopened after further contact from Mr L and solicitors were appointed, but he then said he had reached an agreement with the neighbour and didn't wish to pursue things.

Our investigator's initial view was that delays by ARAG had led to Mr L instructing solicitors. After reviewing further evidence, the investigator concluded ARAG wasn't responsible for Mr L's decision to appoint solicitors, but there had been some delay. She asked ARAG to pay compensation of £150 for the distress caused by this. Mr L disagrees and has requested 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.

We have received extensive comments from the parties. I won't comment in detail on every point that has been raised and will focus on the key points that are relevant to the outcome I've reached. This is in line with our role, which is to provide an impartial review, quickly and with minimal formality. I use my judgement to decide what's fair, based on the main crux of a case.

Mr L says the heart of the complaint is the lack of support and poor communication, which left them not knowing if the claim would be covered. He says they had no choice but to instruct solicitors. He would like those costs reimbursed and says £150 doesn't adequately reflect the impact on them. So the focus for my decision is whether they had to instruct solicitors and incur costs because ARAG failed to deal with their claim in time.

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.

The policy provides cover for certain types of legal dispute, including nuisance and damage to property, but not for a dispute purely about a breach of covenant.

Cover will only be provided if the claim has prospects of success. This is a requirement of almost all legal expenses insurance and I think it's reasonable – it wouldn't be fair to expect an insurer to cover a claim if it's unlikely to succeed. Insurers will obtain legal advice about the prospects of success and they're entitled to rely on that advice unless it's obviously wrong.

When Mr L contacted ARAG, there was a very short period before the initial date for the auction on 30 May. ARAG couldn't realistically have dealt with the claim before then – it would not have been able to get all the information needed, confirm the dispute was within one of the heads of cover provided by the policy, refer the claim to solicitors and get a prospects assessment in that timescale.

ARAG said cover wouldn't be put in place until a solicitor had been formally appointed and any costs incurred before then would not be covered, and explained it couldn't resolve the issue immediately. Mr L was advised to discuss the situation with the new owners and if the dispute continued, come back and ARAG would reassess the claim. I think that was reasonable. ARAG also made it clear it could potentially consider a claim for nuisance but not for a breach of covenant.

There was continued correspondence over the following weeks. And there were some short delays in June, which ARAG has acknowledged. But it still needed more information, and made a clear request for information. It was reasonable to wait for that. Mr L didn't tell ARAG the auction had been postponed so it thought the immediate urgency had passed and it was a matter of considering whether there was an ongoing nuisance that might be covered by the policy. ARAG says it was due to consider this on 21 June 2024 but Mr L called that day and closed the claim before it was able to assess it fully.

I can appreciate why Mr L might have wanted to instruct solicitors at that point. He was concerned it might be more difficult to resolve the dispute if the neighbour's house was sold to new owners. He felt the need to protect their position. But if the aim was to deal with the nuisance, rather than stop the sale, that could have been done after any sale. He could have allowed the claim to be assessed and waited for ARAG to confirm if solicitors would be appointed. While I appreciate why Mr L appointed his own solicitors, I don't think he was forced into doing that by any failing by ARAG.

When ARAG reopened the claim, it responded within a reasonable time and referred it to panel solicitors to assess, but Mr L was then able to reach an agreement with the neighbour and did not need to proceed with the claim at that time.

The crux of the matter here is whether delays by ARAG in its initial handling of the claim were such that Mr L was forced to incur legal costs that otherwise would have been covered by the policy. For the reasons set out above I don't think he was. But there were some short periods of delay and poor communication. This was a very difficult situation for Mr and Mrs L

and any delay or uncertainty would have made things more stressful for them. I think a payment of £150 is appropriate. This won't cover the legal costs they incurred but, taking into account all the circumstances, I think it's a fair amount to acknowledge the additional distress caused to them at a time that was already difficult.

My final decision

My decision is that I uphold the complaint and direct ARAG Legal Expenses Insurance Company Limited to pay compensation of £150 to Mr and Mrs L for the distress and inconvenience caused to them.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs L and Mr L to accept or reject my decision before 24 December 2025.

Peter Whiteley
Ombudsman