

The complaint

Miss L's complaint is about a claim she made on her ARAG Legal Expenses Insurance Company Limited ('ARAG') legal expenses insurance policy, which ARAG declined to cover.

Miss L says that ARAG treated her unfairly.

All references to ARAG in this decision include 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 Miss L's complaint for broadly the same reasons set out by the investigator in his view. Before I explain why I wish to acknowledge both the difficult circumstances underlying Miss L's complaint and her strength of feeling about it. Whilst I've read everything she's said here, I won't be addressing it all. That's not intended to be disrespectful. Rather it's representative of the informal nature of the Financial Ombudsman Service.

The starting point is the policy terms. It's a condition of Miss L's policy that her claim has reasonable prospects of succeeding. That's a common feature of policies like the one she took out and not a term we consider to be unfair. Where an insurer has declined a claim like Miss L's we look at whether they were entitled to do so. If they've taken advice from suitably qualified legal professionals, like ARAG have done here, and that advice is that the claim doesn't have the requisite prospects of success, we take the view that they are entitled to rely on that advice.

As the investigator explained, ARAG are not legally qualified, so they aren't able to audit the advice they received from the panel firm they instructed. I know Miss L's concern is about the way in which that advice was obtained. She feels that the assessment was not carried out fairly or thoroughly and that ARAG failed to properly investigate this. I understand her concerns, but they do not in my view fall within ARAG's remit. Once an insurer has instructed a panel firm to carry out an assessment of prospects, the way in which that assessment is conducted is a matter for that firm. The panel firm of Solicitors ARAG instructed have their own separate codes of conduct and regulator. So, if Miss L is unhappy with their conduct, she will need to address this with them directly.

There are actions ARAG can take however if a policyholder is unhappy about the service they've received. They can for example, contact the panel firm to see whether there's anything more that can be done, if they thought it was appropriate to do so. In this case I can see that the panel firm provided a fully reasoned legal opinion explaining why the merits of

Miss L's claim had no reasonable prospects of success. They also later referred the matter to senior fee earners. They told Miss L that senior solicitors had reviewed her claim and that three partners, one of whom was a Doctor and another colleague who was a nurse unanimously agreed that her claim was unlikely to succeed. I appreciate that they didn't give her the names of those people but I'm not persuaded they needed to do so in order for ARAG to consider that more should be done by them. In those circumstances I don't think ARAG needed to follow up any further with the panel firm. They would not, as I've said, carried out an independent review of the claim as Miss L suggests as they were not qualified to do so. And given they'd funded a review of the claim already, it was up to Miss L to obtain her own legal opinion at her own cost to prove it did have reasonable prospects of success if she thought the conclusions reached by the panel firm were wrong. ARAG said that they would be prepared to reconsider the claim again if Miss L was able to provide a positive legal opinion of her own. I think that's reasonable. If that happened, I would also expect ARAG to reimburse Miss L for the cost of the opinion she obtained.

As I understand it, Miss L has further evidence she wants considered. She is free to put that to ARAG. I would expect them to ask the panel firm whether this changes their opinion of the merits of Miss L's claim. But if not then it would be up to Miss L to obtain her own opinion that was supportive of the merits of her claim and then present that to ARAG.

I appreciate Miss L feels a decision about the merits of her claim was made without discussing the matter with her. Again, this is a matter for the panel Solicitors instructed and not one I can comment on. If Miss L remains unhappy with their conduct, she can complain to them or the Legal Ombudsman if they are not able to resolve her concerns.

Miss L has raised the funding arrangement with ARAG and their panel firm. She says that because the panel firm is paid a lower hourly rate than privately funded work this creates a risk that claim claims like hers aren't considered carefully. Again, this is a complaint about the standard of work carried out by the panel firm. If Miss L feels that this did not accord with their own codes of conduct, she can address this with them directly, but I can't comment on that issue because it falls outside my remit. What I can say is that an insurer like ARAG is entitled to instruct a panel firm on the rates it has agreed with them in accordance with their standard terms of appointment and this in itself does not lead me to the conclusion that ARAG did something wrong here.

Finally, I can see that Miss L is unhappy that ARAG did not call her back when she asked for them to. ARAG have apologised for this. I think this is sufficient in the circumstances and although disappointing for Miss L, makes no difference to the outcome of my view of her complaint.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss L to accept or reject my decision before 24 February 2026.

Lale Hussein-Venn
Ombudsman