

## The complaint

Mr and Mrs H complain that ARAG Legal Expenses Insurance Company Limited withdrew cover for Mrs H's legal expenses insurance claim.

## What happened

Mr and Mrs H hold legal expenses cover with ARAG through Mr H's home insurance. Mrs H injured her ankle after tripping on a pavement. She notified the local council that was responsible for maintaining the pavement. After negotiations, the council offered her a settlement of £7,000.

Mrs H made a claim under the policy. She wanted a solicitor to advise her whether the £7,000 offer was reasonable, and if not, to make a formal legal claim against the council.

ARAG accepted Mrs H's claim and appointed panel solicitors to act on her behalf. The solicitors asked Mrs H to accept their terms of business, and to agree to them submitting a claim form via the personal injury portal, thereby going 'on record' as acting for her.

Mrs H amended the solicitors' terms of business and didn't agree to them submitting a claim form via the portal. She thought that if the solicitors went on record as acting for her, then the council might revoke its settlement offer. She wanted the solicitors to arrange for her to have a medical examination, and then only go on record as acting for her if the medical assessment supported that she should receive a higher settlement amount than £7,000.

ARAG told Mrs H the solicitors had advised it she'd asked them not to go on record as she didn't want to reopen liability with the council. ARAG said if she didn't want the solicitors to go on record for her, it could no longer proceed with her claim.

Mrs H complained to ARAG. She said until she received advice on quantum, there was no point in the solicitors going on record. She said she'd decided to accept the £7,000 settlement she'd been offered from the council and thought the solicitors' handling of the matter had prevented her from receiving a higher amount.

ARAG issued a final response to the complaint. It said the advice from the solicitors was that to provide legal advice about the settlement offer, a medical report would be required, and for this to happen Mrs H would need to allow the solicitors to go on record. ARAG concluded that Mrs H hadn't co-operated with the solicitors as required under the policy terms and therefore withdrew cover. It let her know that it provided a 24-hour legal helpline that she could use.

Unhappy with ARAG's response, Mr and Mrs H brought a complaint to this service.

I issued a provisional decision on 18 December 2025. Here's what I said:

*'I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.'*

*Industry rules set out by the regulator (the Financial Conduct Authority) say insurers must not unreasonably reject a claim and must deal with claims promptly and fairly. I've taken these rules, and other industry guidance, into account when deciding what I think is fair and reasonable in the circumstances of Mr and Mrs H's complaint.*

*The policy terms explain that ARAG agrees to provide Mr and Mrs H with insurance so long as reasonable prospects exist for the duration of the claim. The policy defines 'reasonable prospects' as:*

*'For civil cases, the prospects that you will recover losses or damages (or obtain any other legal remedy that we have agreed to, including an enforcement of judgment), make a successful defence or make a successful appeal or defence of an appeal, must be at least 51%. We, or a preferred law firm on our behalf, will assess whether there are reasonable prospects.'*

*The council had already made a settlement offer of £7,000 to Mrs H. Therefore, the solicitors essentially needed to decide whether Mrs H had reasonable prospects of exceeding the £7,000 offer if the matter went to court.*

*However, the solicitors wouldn't consider whether Mrs H had reasonable prospects of success until it went on record as acting for her. It seems the reason for that was because a medical assessment was needed so the solicitors could make a decision on prospects. The solicitors said that not going on record meant they would effectively be writing off any entitlement to legal costs and disbursements if the matter went to court.*

*I can't comment on how solicitors should carry out their work. But I don't think it's standard practice for solicitors acting for insurers to go on record for a client before prospects have been assessed. I can't see why the solicitors couldn't have arranged for Mrs H to have the medical assessment and then made a decision on prospects. I don't think this would have affected ARAG's ability to later recover the cost of arranging that medical report if the matter went to court.*

*I appreciate the policy says the consumer must co-operate fully with the appointed solicitor. But I don't agree that it was reasonable here for ARAG to require Mrs H to accept the solicitors' requirement that she allow them to go on record for her before making any assessment on prospects. It also appears that ARAG is confused about the matter, as its final response said that Mrs H would need to accept the solicitor's terms of business to allow them to go on record as acting for her, but I understand she'd already accepted their terms of business.*

*So, I don't think ARAG acted fairly by deciding to withdraw cover. I think they ought to have appointed a different panel solicitor and asked them to assess prospects before going on record as acting for Mrs H.*

*Putting things right*

*I intend to require ARAG to arrange for Mrs H to have a medical assessment and then appoint an alternative panel solicitor to assess whether they consider Mrs H could have obtained a higher settlement than £7,000 based on the medical report. If they consider she could have obtained a higher amount, then ARAG should pay Mrs H the difference between these figures. Interest should also be added at the rate of 8% simple per annum, payable from a month after the claim was made to the date of settlement.*

*I also intend to require ARAG to pay Mrs H £250 compensation for the distress and*

*inconvenience caused by its decision to withdraw cover. Its decision meant Mrs H accepted the council's offer, despite not knowing if this was reasonable.'*

I asked both parties for any comments they wished to make before I made a final decision.

Mrs H responded to confirm she accepted my provisional findings. She explained that the council told her when she instructed solicitors that their offer was withdrawn, and it was only when she agreed to act without legal advice and accept the payment that the settlement offer was reinstated.

ARAG responded with the following main points:

- The solicitors required Mrs H to agree to their representation so they could take appropriate instructions from her and obtain the required medical evidence, in order to give her legal advice.
- Mrs H had initially sought advice from its legal helpdesk, but they couldn't provide the required advice.
- Mrs H's request (to receive advice on the potential value of the claim) wasn't something that could be offered by the solicitors.
- The solicitors confirmed they wouldn't act for Mrs H unless she allowed them to lodge a claim notification form (to go on record as acting for her).

As both parties have now responded, the matter has been passed back to me for 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.

I've considered ARAG's response to my provisional decision, but it hasn't provided any new evidence or comments that I wasn't already aware of.

I'm aware the panel solicitors refused to act for Mrs H until she allowed them to go on record as acting for her. Though as I explained in my provisional decision, a prospects assessment hadn't yet taken place. Whilst this situation was slightly unusual, in that a settlement offer had already been made by the other party, I think that just meant the solicitors needed to decide if Mrs H had reasonable prospects of exceeding the settlement offered. And I don't think it's standard practice for a solicitor to go on record as acting for someone before making any assessment on prospects.

I therefore remain of the opinion that it was unreasonable for ARAG to say that Mrs H needed to accept the solicitors' requirement that she allow them to go on record for her before making an assessment on prospects.

I've noted Mrs H's explanation that the council initially withdrew their settlement offer when she told them she had instructed solicitors. This further supports her reluctance to have the solicitors going on record as acting for her before a prospects assessment had been done.

So, I still find that ARAG didn't act fairly when it withdrew cover.

### **Putting things right**

I require ARAG to arrange for Mrs H to have a medical assessment and then appoint an alternative panel solicitor to assess whether they consider Mrs H could have obtained a

higher settlement than £7,000 based on the medical report. If they consider she could have obtained a higher amount, then ARAG should pay Mrs H the difference between these figures. Interest should also be added at the rate of 8% simple per annum, payable from a month after the claim was made to the date of settlement\*.

I also require ARAG to pay Mrs H £250 compensation for the distress and inconvenience caused by its decision to withdraw cover. Its decision meant Mrs H accepted the council's offer, despite not knowing if this was reasonable\*\*.

\* If ARAG considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Mrs H how much it's taken off. It should also give Mrs H a certificate showing this if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

\*\*ARAG must pay the compensation within 28 days of the date on which we tell it Mrs H accepts my final decision. If it pays later than this, it must also pay interest on the compensation from the deadline date for settlement to the date of payment at 8% a year simple.

### **My final decision**

My final decision is that I uphold this complaint and require ARAG Legal Expenses Insurance Company Limited to do what I've set out above under the 'putting things right' section.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs H to accept or reject my decision before 25 February 2026.

Chantelle Hurn-Ryan  
**Ombudsman**