

complaint

Mr G's complaint is about the way in which his legal expenses insurance claim was handled by Ageas. He's also unhappy that he can't use his own choice of solicitors to further his claim.

background

In 2016 Mr G was involved in a road traffic incident in which he suffered an injury and his bike was damaged. He made a claim on his legal expenses insurance policy to pursue the other party involved. A firm of solicitors was appointed to help him with this. Mr G wasn't happy with the service he received from that firm so asked Ageas to let him use his own solicitors.

Ageas declined Mr G's request. They said his claim wasn't at a stage that allowed him freedom of choice. As a result they offered him another panel firm of solicitors until his claim reached the point that proceedings needed to be issued.

Mr G wasn't happy with this. He said there was a conflict of interest with the solicitors Ageas had suggested. He was also unhappy that Ageas weren't prepared to discuss his claim by phone. Mr G says that by doing this, Ageas failed to make the reasonable adjustments he required as a result of the injury he'd suffered as part of the incident he was claiming for.

my findings

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 think Mr G's complaint should be upheld. I'll explain why.

The starting point is the policy terms. They say:

"Before You need to issue proceedings, We will ordinarily recommend a Legal Representative from Our panel. If the Insured Person is not happy with the Legal Representative We have recommended, or a conflict of interest arises, they may advise Us and We will generally suggest an alternative from Our panel.

When You need to start legal proceedings, You are entitled to choose your own Legal Representative. However, we may reject Your choice if we believe the Legal Representative lacks the necessary skills.

If there is a conflict of interest the Insured Person shall also be free to choose their own Legal Representative."

It's long been our approach that we wouldn't expect an insurer to fund a consumer's own choice of solicitor before it becomes necessary for proceedings to be issued, if this accords with their policy terms. That seems to be the case here. The only exceptions to this are where there are exceptional circumstances that apply to the consumer's case or where there's a conflict of interest.

Having considered the underlying claim Mr G wishes to bring and his circumstances, I don't think there are any exceptional reasons that mean he should be entitled to his own choice of solicitors at this stage. And I've considered what Mr G has said about there being a conflict

of interest, but I don't think that applies in this case, or that Ageas acted unfairly by declining his request. Mr G has objected to the panel firm he initially used and the alternative Ageas offered him because he's unhappy with the service he received from them, both now and in the past. But that doesn't, in my view, constitute a true conflict of interest. This arises only where the solicitor would be in breach of their code of conduct, or would be "professionally embarrassed" if they continued to act for Mr G. I've seen nothing to suggest this was the case for either of the options offered to him.

Ageas have offered Mr G a third panel firm. As far as I'm aware Mr G hasn't had any dealings with the third panel firm. And I haven't seen any obvious reasons why their appointment would cause him any problems. Because of this and the reasons set out above, I don't think Ageas have done anything wrong. It's up to Mr G if he wishes to accept the appointment of the third panel firm at this stage. If he doesn't then Ageas aren't obliged to offer him his own choice of solicitors until it becomes necessary for proceedings to be issued.

Mr G is also unhappy that Ageas are only prepared to communicate with him by email. He says this doesn't take account his needs and that Ageas aren't making reasonable adjustments.

I understand that Ageas had historically communicated with Mr G by telephone but they eventually took the view this was no longer appropriate because of the way in which Mr G would communicate with them. In particular I understand that there were several difficult calls between Ageas' staff and Mr G during which a number of threats were made by Mr G, resulting in the police being informed. Whilst I haven't listened to the calls, I am aware of their content, which Mr G doesn't seem to dispute. Because of the seriousness of the threats made, I don't think Ageas were wrong to limit communications with Mr G to email only. As a business they're entitled to do this to protect the safety and wellbeing of their staff.

I appreciate that Mr G prefers to communicate by telephone but I haven't seen anything to suggest that this is the only way in which he can communicate. Ageas have made adjustments to the way in which they communicate with him in by email to assist him. I think this is reasonable in the circumstances. So I don't think they should do anymore.

I know that Mr G wanted Ageas to communicate with a representative a few months ago but the information he provided Ageas with about this wasn't clear so Ageas weren't sure if Mr G was providing his authority for this. As a result Ageas refused to speak to the representative. But they did contact Mr G to clarify whether he was providing authority and explain what more they needed from him before they were prepared to consider this. I don't think that was wrong. Rather it seems that Ageas exercised caution in speaking to a third party about Mr G's complaint, which is what I'd expect them to do in such circumstances.

Mr G is unhappy that Ageas haven't responded to recent correspondence from him. That's because this Service agreed to relay communications between the parties throughout the duration of this complaint. Mr G's email was sent to Ageas directly and repeated two of his complaint points which were already being considered by an investigator. So I understand why Ageas didn't respond to that email. And even if I would've expected them to, I don't think Mr G suffered any detriment by Ageas' failure to respond. That's because the only point in that email that wasn't already being considered by this Service was a question about the details of their data protection officer/data controller as well as their registration number. I'm not sure why Mr G needed this information or what he intended to do with it but if he

remained unhappy with Ageas' failure to respond to this point, he could've complained to the Information Commissioner's Office.

my final decision

For the reasons set out above, I don't uphold Mr G's complaint against Ageas Insurance Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 28 December 2018.

Lâle Hussein-Venn
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