

The complaint

Miss H complains about Accredited Insurance (Europe) Limited (Accredited) who declined her claim under her legal expenses insurance policy.

Any reference to Accredited includes its agents.

What happened

Miss H held a home insurance policy with legal expenses cover included.

In April 2023, Miss H had work done in her garden, but she felt the standard wasn't satisfactory. She explained the contractor she hired didn't complete the work so Miss H didn't pay the full amount that had originally been agreed. Because of this, Miss H said the workman threatened and intimidated her, which resulted in her reporting this to the police.

Miss H also sought advice from a consumer protection service and made a claim under the legal expenses part of her home insurance policy, underwritten by Accredited. Accredited carried out an investigation, during which it asked Miss H for further information, some of which she didn't provide. After it reviewed all the information, it declined the claim based on a merit assessment it had conducted.

Miss H complained to Accredited as she felt it had unfairly declined her claim, based on specific clauses within the policy. In its final response, it explained the decision to decline, which it said was based on the current evidence Miss H had provided. Also, the court costs likely to be incurred, would've been higher than any potential damages that Miss H could receive.

Miss H remained unhappy, so she referred a complaint to this Service. An investigator considered the complaint and didn't think it should be upheld. He said the policy terms and conditions were clear. Miss H couldn't provide important documents and he agreed any court costs were likely to be higher than any potential damages Miss H could receive. His view was Accredited had acted fairly and reasonably, within the policy terms and conditions.

Accredited accepted the view, Miss H did not. She reiterated her complaint points and said the claim had been unfairly declined. As the matter couldn't be resolved, it has been passed to me for a 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 this complaint, for much the same reasons as the Investigator. I understand this will be a disappointment to Miss H, but I hope my findings go some way in explaining why I've reached this decision.

Miss H held a legal expenses policy with Accredited. Miss H had some work carried out in her garden, which she was unhappy with. She said she paid £2,400 towards the work that had been carried out but didn't pay an additional amount of £2,000, that she had verbally agreed with the contractor. She also said, she was intimidated by the contractor due to threats he made towards her, which led her to make a report to police.

The policy sets out the agreement between the parties and what we decide in a matter like this, is whether the insurer has acted in accordance with the terms and conditions of the policy, considering all available evidence. During Accredited's investigation I can see it asked Miss H to provide further information. The information was sought to carry out a full merit assessment. The purpose of the assessment, which Accredited said was conducted by legal professionals, was to examine the chances of success at court and the potential costs involved.

From the evidence, Miss H agreed for her claim to be assessed by Accredited's panel of solicitors. The assessment came back with the likelihood of success being less than 51%. And the costs incurred more than the potential damages Miss H could receive. Accredited told Miss H if she were able to provide additional information, it would be able to carry out a further review. I understand Miss H advised she was unable to provide the information.

I've reviewed the policy terms and conditions. The term Accredited declined the claim under states:

'If, after receiving a claim or during the course of the claim, we decide that:

- 1. There is less than a 51% chance of your claim being successful*
- 2. The costs of the legal action are more than the value of any damages that are likely to be awarded as a result.*

We will write to you giving our reasons why we cannot agree to this claim.'

I don't think the policy term is unclear. Accredited showed it had carried out an assessment and advised Miss H about its concerns. The concerns it highlighted included, Miss H not being able to provide a written contract detailing the scope of works, the timeframe of the works to be completed and the sum agreed.

Accredited also highlighted Miss H was unable to provide information regarding the material used, as well as the ownership of those materials. It said there was no information from Miss H that she had mitigated her losses, by giving the contractor the opportunity to rectify the defective work she had complained about. So, based on the points raised, Accredited assessed the chance of success to be less than 51% if taken to court. And because of this, it said unless Miss H was able to respond fully to the concerns it raised, it was unable to confirm cover because the requirements of the policy hadn't been fulfilled. The point here that whatever Miss H was looking to claim for, would need to have reasonable prospect of success

I haven't seen Miss H has provided the required information. Nor that Miss H mitigated her losses. So, I'm persuaded that the policy terms hadn't been fulfilled. Consequently, I think Accredited was reasonable to ask Miss H to provide the information.

Accredited investigated the requirement of proportionality of legal costs. It explained the amount of money Miss H wished to claim was relatively small and, in its experience, less than £5,000. I should point out that it's not necessary for me to address whether the claim was proportionate to pursue, because the claim didn't satisfy the prospects requirement under the policy.

In summary, I think Accredited dealt with Miss H's claim fairly. I'm satisfied it acted within the policy terms and conditions as Miss H hasn't been able to alleviate the concerns it raised. I understand this won't be the outcome Miss H would've liked but, in the circumstances, I can't reasonably ask Accredited to do anything further to resolve this complaint.

My final decision

For the reasons as outlined above, my final decision is that I don't uphold this complaint

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 16 May 2024.

Ayisha Savage
Ombudsman