

Your Legal Questions



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Q I am involved in a legal dispute. I have insurance to cover my legal expenses and I want to instruct my own solicitor. However the insurers are trying to make me use their selected solicitors instead. Can they do this?

A I am afraid your experience is increasingly common as some insurers are making it very difficult for all but the most persistent policy holders to instruct the solicitor of their choice.

Policy holders will instead be directed to a "panel" solicitor of whom they will have no knowledge or previous dealing. These arrangements are usually sold to the insured on the basis that they are getting a "specialist service" whereas in many cases they will not get to speak to a solicitor about their claim initially but will be put through to a call centre.

Policy holders are often too polite to challenge such misinformation with the result that they unwittingly give up their right to be represented by the solicitor of their choice.

Recognising the problem, the Government introduced the Insurance Companies (Legal Expenses) Regulations giving consumers the right to instruct a solicitor of their choice. Insurers have sought to get round these regulations by various technical arguments but recent cases have demonstrated that the Courts will not allow legal expenses insurers to restrict a consumer's freedom to choose their own solicitor or barrister.

Furthermore, the Financial Services Authority has written to all legal expenses insurers stating that:-
"... the right to choose a lawyer arises once it becomes clear that recourse is to be had to legal proceedings"

Where you have the benefit of a legal expenses insurance policy, remember that as soon as the circumstances giving rise to a claim arise you can consult your own solicitor who can apply to be appointed to act for you under the terms of the policy so that your legal expenses are covered.

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