

The complaint

Mr and Mrs D are unhappy Acasta European Insurance Company Limited turned down a claim they made on their wedding insurance policy.

What happened

Mr and Mrs D took out wedding insurance with Acasta for their wedding which was due to take place on 21 March 2020. On 20 March the Prime Minister announced hospitality facilities would need to close that evening and not reopen the following day following the Covid-19 outbreak. Mr and Mrs D went ahead with the wedding ceremony but their reception was cancelled and they've claimed for costs associated with that.

Acasta turned down the claim. Initially it said the policy didn't cover claims arising from a government act or exclusion. In subsequent correspondence it said Mr and Mrs D had provided contradictory evidence about the reasons for cancellation of the reception; initially Mr D said it was because the venue had cancelled but he later said it was because of his partner's ill health. Acasta contacted the venue which told them it was Mr and Mrs D who cancelled.

Acasta said while the policy did cover cancellation due to sickness of the couple or a close relative that would need to prevent the wedding ceremony going ahead. In this case as Mr and Mrs D had gone ahead with their wedding, the costs they'd claimed for weren't covered. It also thought Mr and Mrs D had taken too long to notify suppliers the reception had been cancelled. And as Mr and Mrs D hadn't accepted an offer to rearrange the reception date they'd caused the "*pecuniary loss*" they were claiming for.

Our investigator looked at emails between Mr and Mrs D and the venue and was satisfied it was the venue which had cancelled the reception. And he thought this would fall within the section of the policy that covered cancellation due to an outbreak of infectious or contagious disease. He didn't think there had been any delay in informing suppliers of the cancellation and as the venue hadn't offered a refund, he didn't think they had a pecuniary loss recoverable from another source. And he didn't think Acasta could rely on the exclusion for claims arising from "*government regulation or act*". He thought the claim should be paid in line with the remaining policy terms.

Mr and Mrs D agreed. Acasta didn't accept his view. It thought the reason for cancellation was that Mrs D was unwell. So it was that section of the policy that would apply. It continued to feel the cancellation hadn't been notified in line with the policy terms. It didn't accept what the investigator said about the "*government regulation or act*" exclusion.

So I need to reach 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.

The relevant rules and industry guidelines say Acasta has a responsibility to handle claims promptly and fairly. It shouldn't reject a claim unreasonably.

In this case there's conflicting evidence on why Mr and Mrs D's wedding reception was cancelled. They've provided a text exchange with their wedding co-ordinator at 17.16 on 20 March. In that the co-ordinator says the venue are shutting their doors that evening (following the Prime Minister's announcement). But in correspondence with Acasta Mr D did suggest it was Mrs D's ill health that led to the cancellation and provided a letter from her consultant in support of that. And I appreciate the venue told Acasta it was Mr and Mrs D who cancelled.

To help resolve this we contacted the venue and asked them to clarify what happened. The venue said: *"For the original date of 21st March 2020, the government guidelines cancelled their wedding as we were put into a national lockdown the evening prior (20th March 2020). The couple were offered a postponement"*.

The venue says the information they provided to Acasta about Mr and Mrs D cancelling related to their subsequent decision not to reschedule the date of the reception. On the basis of that information I'm satisfied it was the venue which cancelled the wedding reception following the announcement from the Prime Minister about Covid-19.

So it would be the cancellation due to infectious or contagious diseases section of the policy that would apply. That says:

"We will pay up to the amount shown in the Summary of Cover for any irrecoverable expenses incurred by You in respect of Ceremonial Attire, flowers, photographs, caterers, transport, accommodation and the services from any other Wedding Services Supplier booked but not used as a direct result of the unavoidable cancellation or curtailment of the Wedding or Wedding Reception as the result of:

- (a) the booked venue for the Wedding or Wedding Reception being unable to hold Your Wedding due to an outbreak of infectious or contagious disease, damage to the venue, murder or suicide at the premises or closure of the venue by the relevant authority"*

The policy defines wedding as *"a ceremony which creates a contract of marriage which is legally enforceable within the United Kingdom or a Civil Partnership registration or ceremony."* And it defines wedding reception as *"the social gathering, including room hire and catering, following within no more than 24 hours of the Wedding, at which the Wedding will be celebrated."*

The policy doesn't define *"infectious or contagious disease"* so I need to consider the natural meaning of that phrase. I'm satisfied Covid-19 – a disease that can be passed easily from one person to another – would amount to an infectious or contagious disease. I'm also satisfied there has been an outbreak of Covid-19. The policy doesn't say anything about the scale of the outbreak, only that there must have been one, which there has.

I appreciate that outbreak wasn't at the wedding reception venue but I don't think it has to be. The policy term does include the words "*at the premises*" but I don't think that's intended to apply to the whole clause. It wouldn't make sense for it to apply to "*damage to the venue*" as the venue must always be the same as "*the premises*". The policy doesn't define either of these terms. But it refers to the venue where the wedding or the reception are booked, meaning the place where they will take place. And logically, the reference to premises – contained in the clause about cover for the venue being unable to hold the wedding – must refer to the same place.

"*Closure... by the relevant authority*" comes after the words "*at the premises*" so those words don't apply to that. If the intention was that these words apply to the whole of this policy term (meaning an outbreak of disease would only be covered if the outbreak was at the premises) the policy wording could have made that clear but it doesn't. So in my view the correct legal construction is that the words "*at the premises*" only apply to "*murder or suicide*" not to the whole of that policy term.

Acasta argue this section of the policy only provides cover where a couple are unable to hold their wedding. And in this case Mr and Mrs D went ahead with the ceremony. But again I don't think that's the correct interpretation of the term. The policy provides cover for the unavoidable cancellation of the wedding or the wedding reception. I think it's clearly contemplating two separate venues.

Acasta's interpretation would mean that cover wouldn't be provided where a couple were able to get married in, for example, a religious setting but weren't then able to have their reception because the roof of that venue had collapsed. I don't think that's a correct interpretation. I think the intent of this clause is to provide cover where the booked venue for either the wedding or wedding reception is unable to host the event as a result of the circumstances set out within the clause.

And I'm satisfied the booked venue for Mr and Mrs D's wedding reception was unable to hold their reception because of an outbreak of infectious or contagious disease. If they'd booked the same venue for their wedding ceremony that wouldn't have gone ahead either. I don't think it's correct to say that the claim they've made isn't covered simply because the wedding ceremony was able to go ahead in a different location. Even if that's wrong, I don't think it would in any case be fair to turn down the claim on that basis. It's common for a couple to have a wedding ceremony at a different venue to the reception and I think it's reasonable to expect the policy would provide cover in the event of a partial cancellation.

I appreciate the policy also excludes claims arising directly or indirectly from "*failure to notify the provider of any goods or service immediately it is found necessary to cancel or curtail the Wedding or Wedding Reception*". But I don't think Mr and Mrs D's claim does arise from any failure to notify their suppliers. The evidence I've seen suggests they made contact with those suppliers either on the night of 20 March or early the next day. And while the policy doesn't cover a "*pecuniary loss recoverable from any other source*" I don't think this applies here. Mr and Mrs D say they approached suppliers for refunds and their request was refused and they didn't get a response from the venue.

The policy says it doesn't cover claims arising from "*government regulation or act*". Acasta believe that exclusion does apply here and says it's been previously advised (in general terms) there is no issue with applying this. I don't agree. At the point the venue cancelled they were acting on a statement from the Prime Minister. The government regulations enforcing that statement didn't come into effect until the following day. So I'm not clear this would be caught by the "*government regulation or act*" exclusion given that statutory force wasn't given to the Prime Minister's statement until 21 March.

In any case the insured event set out above covers an order to close from any authority with the power to issue the closure direction – there is cover if the claim arises from “*closure of the venue by the relevant authority*.” Acasta argue that the exclusion for government act or regulation means the claim is not covered if the venue closed due to government restrictions.

But any powers to close a venue are highly likely to be derived – directly or indirectly – from government regulation or acts. It’s difficult to see a situation in which a venue is closed by a relevant authority that isn’t using powers derived from a government regulation or act. Acasta’s interpretation either narrows the scope of the insuring clause considerably, or requires additional wording to be read into the exclusion so that it does not apply to a government regulation or act which results in the closure of the specific venue. If the exclusion clause was intended to cover government regulations or acts closing venues, it could have said so, but it doesn’t make this clear.

Either way, the effect would be to give cover with one hand (the insuring clause) and then take it away with the other (the exclusion clause). The legal position is that the insuring clause and exclusion clause need to be read together. If either clause is looked at in isolation, the consumer would or would not have cover, depending on which of the clauses one considers. In my view, it would not be a fair outcome to say the cover given by the insuring clause is taken away by the exclusion.

So for the reason I’ve explained I don’t think Acasta has fairly turned down this claim and I’m therefore upholding this complaint.

Putting things right

To put things Acasta should settle the claim and pay Mr and Mrs D’s losses in line with the remaining policy terms, together with 8% simple interest from the date the claim was made until the date it’s settled.

My final decision

I’ve decided to uphold this complaint. Acasta European Insurance Company Limited will need to put things right by doing what I’ve said in this decision.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr and Mrs D to accept or reject my decision before 21 May 2021.

James Park
Ombudsman