

The complaint

Mr and Mrs D complain that Great Lakes Insurance SE hasn't provided them with a refund of premiums for a single trip travel insurance policy they held.

What happened

The background to this complaint, and my initial conclusions were set out in my provisional decision dated 7 February 2022 – a copy of which is attached and forms part of this final decision.

In my provisional decision I explained why I didn't think Great Lakes had acted reasonably and fairly in how it deal with Mrs and Mrs D's complaint. And I outlined the reasons why I was minded to uphold it. I said:

"What happened

Mr and Mrs D took out a single trip travel insurance policy on 1 November 2019 for an extended holiday which was due to take place from 14 February until 7 June 2020. They paid a total of £656.05 for the standard level of travel insurance cover, which included Insurance Premium Tax (IPT) and cover for some medical conditions they declared.

In March 2020, Mr and Mrs D's holiday destination went into lockdown. And, while they were there, the UK government advice to tourists changed to the extent that on 23 March 2020 it was strongly advising all UK citizens to return home.

On 25 March 2020 Mr and Mrs D contacted Great Lakes to explain that they were overseas and self-isolating within a national lockdown. They queried whether they would continue to be insured if they did not follow UK government guidance to return to the UK as they said they felt safe self-isolating where they were.

Great Lakes initially informed Mr and Mrs D that, if they were delayed in returning to the UK, it would extend their cover. But during the same call it subsequently said that, as UK citizens were being advised to return home, Mr and Mrs D would be required to follow that guidance. It stated that because their return date wasn't until June it would be best to speak to their travel provider to seek advice and then call Great Lakes with an update.

Mr and Mrs D were also told that if the UK government advice was to return home and they decide to stay irrespective of that guidance then Great Lakes wouldn't cover them. It told Mr and Mrs D that there may be emergency flights available to repatriate people back to the K and that they'd need to check if such measures were available with their travel provider.

Mr and Mrs D chose not to take up an emergency flight back to the UK after checking with their travel provider. So, they remained where they were beyond the end of their policy. They say that from 25 March 2020 onwards they believed that there were uninsured as a result of the telephone discussion they'd had with Great Lakes that day.

Mr and Mrs D contacted Great Lakes to complain about the service they'd received and to request a partial refund of their insurance premium. They thought Great Lakes should issue a refund of the premium they'd paid, which took into the account that they hadn't been insured from 25 March 2020 onwards.

When Great Lakes responded to Mr and Mrs D's complaint it didn't uphold it. It said they weren't entitled to a refund and explained that their policy had never been cancelled. So, their cover had been continuous from when the policy was inception. It also stated that, under the terms of the policy, cover would have been extended automatically if Mr and Mrs D hadn't been able to travel home on their scheduled return date due to circumstances beyond their control. It therefore didn't think it had made an error.

Being dissatisfied with Great Lakes' response to their complaint, Mr and Mrs D referred it to our service. Our investigator initially didn't recommend upholding this complaint because they weren't persuaded the policy had been invalidated as a result of Mr and Mrs D's decision to remain overseas contrary to UK government guidance.

When Mr and Mrs D responded to our investigator's view, they made our service aware that repatriation flights had been offered to them, which they'd chosen not to take up. In view of this, our investigator stated Mr and Mrs D weren't following UK government advice. And, because of this, they were persuaded that Mr and Mrs D wouldn't have been insured for the remainder of their stay overseas. They recommended upholding this complaint and directed Great Lakes to refund Mr and Mrs D on a pro-rata basis from 25 March 2020 until the end of their policy.

Mr and Mrs D agreed with our investigator's view of their complaint. But Great Lakes didn't. I've been asked to decide what is a fair and reasonable way of resolving their concerns.

What I've provisionally 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 taken into account everything Mr and Mrs D and Great Lakes have said. Having done so, I'm intending to uphold this complaint in part. However, my reasons for doing so are different to those our investigator stated in their view. For this reason, and in the interests of fairness, I am issuing a provisional decision.

Industry rules and guidance

The insurance industry regulator, the Financial Conduct Authority ('FCA'), has set out rules and guidance about a consumer's right to cancel an insurance contract. These are contained in the 'Insurance: Conduct of Business Sourcebook' (ICOBS).

ICOBS says insurance contracts like the one Mr and Mrs D held have a cooling off period of 14 days for a consumer to cancel without penalty and without giving any reason. This is called the 'right to cancel'.

Under ICOBS, a firm may provide longer or additional cancellation rights voluntarily, as long as these are on terms which are at least as favourable to the consumer, unless the differences are clearly explained.

ICOBS 7.2.2 addresses payment for the service provided before cancellation in the event that a consumer has the 'right to cancel'. This rule says, if a consumer exercises the 'right

to cancel', they may only be required to pay for the service actually provided in accordance with the contract. This 'may include an amount for cover provided (i.e. a proportion of the policy's exposure that relates to the time on risk)'.

Guidance set out under ICOBS 7.2.4 says:

'In most cases, the FCA would expect the proportion of a policy's exposure that relates to the time on risk to be a pro rata apportionment. However, where there is material unevenness in the incidence of risk, an insurer could use a more accurate method. The sum should be reasonable and should not exceed an amount commensurate to the risk incurred'.

Mr and Mrs D didn't cancel their travel insurance policy within 14 days. And, under industry rules, even if Mr and Mrs D had cancelled the policy within 14 days, they wouldn't be entitled to a full refund of the premium paid. This is because Great Lakes covered the risk of them cancelling their holiday for reasons that were covered under the policy during that time.

The policy terms and conditions

The policy terms and conditions say:

"You have a right to cancel up to 14 days of the date you receive:

- *The policy document at the start of your insurance;*
- *The renewal policy documentation for subsequent periods of insurance.*

Should you decide to exercise this cancellation right, you will be entitled to a refund of the premium provided that you have not started a trip to which the insurance applies and you have not made or intend to make a claim.

Following the expiry of your 14 day cancellation period you continue to have the right to cancel your policy at any time during its term by contacting us, but no refund of the premium will be available."

As this policy wasn't cancelled within the 14 day cancellation period, there is no requirement under the contract for the insurer to offer a refund.

What is fair and reasonable in all the circumstances

But I've also considered what I think is fair and reasonable in all the circumstances of the complaint – and whether it would be fair and reasonable to ask Great Lakes to depart from industry rules and the terms and conditions of Mr and Mrs D's contract because of the exceptional and extraordinary circumstances surrounding Covid-19.

Covid-19 was an unanticipated and unforeseen event, outside of the control of both parties to the insurance contract. As a result of the UK government advice, Mr and Mrs D contacted Great Lakes on 25 March 2020 to reassure themselves as to whether they'd be covered if they chose to remain overseas contrary to UK government guidance for UK citizens to return home. I've listened to the telephone recording Great Lakes has provided of the relevant call.

It's a relatively brief call lasting around 6 minutes and it's clear Mr and Mrs D are confused by the guidance they're being given by Great Lakes.

As I set out in the background to this complaint, Great Lakes told Mr and Mrs D during the call in question that if the UK government were advising UK citizens to come home and they decide to stay irrespective of that guidance then it wouldn't cover them. It said "if the government advises you to come home, you need to come home. If you just decide out of your own back to stay, we won't cover you".

At the time that Mr and Mrs D contacted Great Lakes the UK government guidance was for all UK citizens to return home. Based on this, and the statement that Great Lakes made to Mr and Mrs D, I think it would be fair to say their cover ended on the date they were told they'd have no further cover if they stayed abroad.

So, after 25 March 2020, it seems clear that Great Lakes didn't bear any risk under Mr and/or Mrs D's insurance policy.

Based on the unique and unprecedented circumstances surrounding the Covid-19 pandemic, I think it would be fair and reasonable for Great Lakes to provide Mr and Mrs D with a pro-rata refund of the premium they paid for their single trip travel insurance policy from this date until the date the policy was due to end.

To resolve this complaint, I think Great Lakes should refund Mr and Mrs D for the cost of their unused cover from 25 March 2020 to the date the policy was due to end. It should also provide a calculation illustration to our service in response to my provisional decision showing how it has arrived at the refund amount."

In my provisional decision, I invited both parties to respond with any additional information they wanted me to consider before I made my final decision, which is our service's last word on the matter.

Mr and Mrs D responded confirming they agreed with my provisional decision and had nothing further to add.

When Great Lakes responded, it provided a calculation outlining what it thought the value of the refund should be. It confirmed that the policy of insurance taken out by Mr and Mrs D had been 219 days in length. And it stated that they'd been on cover for 144 days prior to 25 March 2020. Great Lakes did not put forward any counter arguments in relation to the comments I made about cover ending on 25 March 2020.

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.

As I set out in my provisional decision, I think it's fair and reasonable to make a finding that Mr and Mrs D's insurance cover with Great Lakes ended on 25 March 2020 based on the information it had provided to them while they were abroad. Great Lakes hasn't put forward any counter arguments it wishes me to consider about this issue. So, I see no reason to depart from the provisional finding I made as to when Mr and Mrs D's cover effectively ended.

Great Lakes provided a calculation to our service following my provisional decision, which it says recognises that 25 March 2020 is the date that cover ceased under the policy. Having carefully checked this calculation, I can see Great Lakes has correctly taken into account the number of days Mr and Mrs D weren't on risk after 25 March 2020.

Great Lakes has shown our service that the daily cost of insurance for Mr and Mrs D, had the policy run its full term, would have been £2.99. And it has offered to refund them £224.25, which I'm satisfied equates to 75 days on unused cover from 25 March 2020 until the date the policy would have ended had it run its full term.

In the overall circumstances of this complaint, I'm persuaded that the refund offered by Great Lakes is correct and in line with the way in which I said I intended to resolve this complaint in my provisional decision.

Putting things right

To resolve this complaint, my final decision is that it would be reasonable and fair for Great Lakes to issue a refund to Mr and Mrs D in the sum of £224.25.

My final decision

My final decision is that I uphold this complaint. To resolve the complaint that Mr and Mrs D brought to our service, Great Lakes Insurance SE should put things right in the way I've outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D and Mrs D to accept or reject my decision before 6 April 2022.

Julie Mitchell
Ombudsman