

The complaint

Mr and Mrs H complain because Chaucer Insurance Company Designated Activity Company ('Chaucer') hasn't paid a claim for a cancelled holiday under their travel insurance policy.

All references to Chaucer include the agents it has appointed to handle claims on its behalf.

What happened

Mr and Mrs H held a single trip travel insurance policy, provided by Chaucer. The policy was purchased in January 2020 and also covered their children.

Mr and Mrs H were due to travel abroad with their children on 27 March 2020. On 15 March 2020, the UK's Foreign, Commonwealth & Development Office ('FCDO' – formerly the Foreign & Commonwealth Office ('FCO')), advised against all but essential travel to the country Mr and Mrs H were due to visit.

The following day, 16 March 2020, Mr and Mrs H's airline cancelled their flights. Mr and Mrs H made a claim under their policy with Chaucer for their accommodation costs, which they were originally told were fully non-refundable. Mr and Mrs H have subsequently received a 60% refund of the money they paid from their accommodation provider.

Chaucer said the cancellation section of Mr and Mrs H's policy didn't cover the circumstances they found themselves in. Unhappy, Mr and Mrs H complained to Chaucer before bringing their complaint to the attention of our service.

Our investigator looked into what had happened and said she didn't think Mr and Mrs H's claim was covered under the terms and conditions of their policy. However, she thought it would be fair and reasonable for Chaucer to pay their claim regardless. Our investigator said Mr and Mrs H's policy wouldn't have provided cover if they'd travelled against FCDO advice, so she didn't think it was fair or reasonable for them to be left in the position of having no cover if they travelled but also having no cover if they cancelled their holiday.

Chaucer didn't agree with our investigator's opinion, so Mr and Mrs H's complaint was referred to me. I made my provisional decision about this complaint in November 2021. In it, I said:

Industry rules and guidance

Relevant regulatory rules (the Financial Conduct Authority's ('FCA's') 'Principles for Business') say:

- *a firm should pay due regard to the interests of its customers and treat them fairly.*

The FCA's 'Insurance: Conduct of Business Sourcebook' ('ICOBS') requires insurers to:

- *act honestly, fairly and professionally in accordance with the best interests of its customer;*

- *handle claims promptly and fairly.*

ICOBS 6 also requires insurers to give customers ‘appropriate information’ about a policy in good time and in a way that is easy to understand. This is so the customer can make an informed decision about the arrangements proposed. ‘Appropriate information’ includes the information that must be set out in an Insurance Product Information Document (‘IPID’) which gives customers an ‘at a glance’ summary of their cover. This includes a summary of the insurance cover including the main risks insured, the insured sum and, where applicable, the geographical scope and summary of excluded risks.

Relevant regulatory guidance (the FCA’s ‘The Responsibilities of Providers and Distributors for the Fair Treatment of Customers’) says firms should consider the impact of their actions – or inactions – on the customer throughout the lifecycle of the service being provided.

Mr and Mrs H’s policy documentation

I’ve looked at the documents relevant to Mr and Mrs H’s policy – the terms and conditions and the IPID from the time the policy was sold, provided by Chaucer.

The terms and conditions of the policy, at page 7 under the heading ‘Geographical Areas’ says:

‘Please note: this policy does not cover your travel to a country or specific area or event to which the Travel Advice Unit of the Foreign & Commonwealth Office or the World Health Organisation has advised against all travel or all but essential travel’.

At page 11, under the heading ‘General Exclusions Applicable To The Whole Policy’, the terms and conditions say:

‘We will not cover the following...

18. Any claim arising as a direct result of a situation highlighted by the Foreign and Commonwealth Office where you have travelled to a specific country or to an area where, prior to your trip commencing, the Foreign & Commonwealth Office have advised against all (but essential) travel.’

Page 1 of the IPID, under the heading ‘What is not insured’ says:

‘Travelling to a country or to an area where, prior to your trip commencing, the FCO have advised against all (but essential) travel.’

On the date Mr and Mrs H cancelled their trip (and on the date they were due to travel, 27 March 2020), the FCDO was advising against all but essential travel to their intended destination. So, if Mr and Mrs H had disregarded FCDO advice and gone ahead and travelled anyway (if it had been possible to do so), they would have had no cover whatsoever under their policy. This means Mr and Mrs H and their children wouldn’t have had the benefit of multiple sections of cover including missed departure, lost or stolen baggage or emergency medical treatment abroad. So, in effect, if Mr and Mrs H had travelled then their policy would have been of no use to them.

The terms and conditions of Mr and Mrs H’s policy, at page 20 under the heading ‘Cancellation Or Curtailment Charges’, say Chaucer will pay for certain costs if:

‘a) cancellation of the trip is necessary and unavoidable...

as a result of any of the following events:

1. The death, bodily injury, illness, disease, or complications of pregnancy of:

- a) you
- b) any person who you are travelling with
- c) any person who you have arranged to stay with
- d) your close relative
- e) your close business associate

2. You or any person who you are travelling with being quarantined on the orders of a treating doctor, called as a witness at a Court of Law or for jury service attendance.

3. Redundancy of you or any person who you are travelling with (which qualifies for payment under current UK redundancy payment legislation, and at the time of booking the trip there was no reason to believe anyone would be made redundant).

4. You or any person who you are travelling with, are a member of the Armed Forces, Territorial Army, Police, Fire, Nursing or Ambulance Services or employees of a Government Department and have your/their authorised leave cancelled or are called up for operational reasons, provided that the cancellation or curtailment could not reasonably have been expected at the time when you purchased this insurance or at the time of booking any trip, which occurred or became apparent within 5 days prior to the commencement of your trip or during the course of your trip.

5. The Police or other authorities requesting you to stay at or return to your home due to serious damage to your home caused by fire, aircraft, explosion, storm, flood, subsidence, fallen trees, collision by road vehicles, malicious people or theft.'

Mr and Mrs H cancelled their trip because the FCDO advised against all but essential travel to their intended destination (and their airline subsequently cancelled their flights). This isn't one of the specific, listed insured events for which cancellation cover is provided under this policy.

So, Mr and Mrs H's claim isn't covered under the terms and conditions of their policy.

Therefore, Mr and Mrs H weren't covered under their policy when they followed FCDO advice and cancelled their trip. But they also would have had no cover under their policy if they'd travelled against FCDO advice.

What is fair and reasonable in all the circumstances

In line with my remit, I also need to consider what I think is fair and reasonable in all the circumstances of Mr and Mrs H's complaint. In doing so, I've had regard to the industry rules and guidance outlined above, as well as to the relevant law (including the unfair terms provisions in the Consumer Rights Act 2015).

Having done so, I don't think it's fair or reasonable in the circumstances for Mr and Mrs H to have no cover when they had to cancel their holiday due to a change in FCDO advice after they'd bought the policy. I'll explain why.

I don't think the exclusion from cover of cancellation claims arising from the FCDO advising

against travel was clearly sign-posted to Mr and Mrs H, and I think the implications of this weren't made clear to them. I think this has left Mr and Mrs H in an unfair position.

The policy exclusions relating to travelling against FCDO advice which I've quoted above don't say that no cover is provided for the cancellation of a holiday in the event of FCDO advice changing between the date the policy was purchased and the policyholder's date of departure. And, cancellation claims due to the FCDO advising against all but essential travel aren't included in the 'What is not insured' section of the IPID, nor are they mentioned as a specific exclusion under the 'Cancellation Or Curtailment Charges' section of cover. The IPID only contains the general exclusion that policyholders won't be covered if they travel against FCDO advice.

Page 3 of Mr and Mrs H's terms and conditions set out the schedule of benefits payable under the policy. This says, amongst other things, that Mr and Mrs H can claim up to £2,000 per person in the event of cancellation of a trip (based on the 'Premier' level of cover which they held). Similar information is contained in the IPID. The IPID also says it is:

'...only intended to provide a summary of the main coverage and exclusions, it does not replace the policy terms and conditions. Complete pre-contractual and contractual information on the product is provided in your policy documentation.'

Overall, this means a consumer would need to go further into the detail of their policy wording to know whether they could successfully claim if they had to cancel their trip because of changes to FCDO advice after they'd bought their policy.

When a consumer reaches page 20 of their policy documentation, which sets out the cancellation cover available, claims arising from a change in FCDO advice aren't listed as a specific exclusion. Instead, claims for this reason are not listed as included within the cover.

Overall, I don't think the fact that there's no cover under this policy for cancellation claims in the event of FCDO advice changing was clearly brought to Mr and Mrs H's attention.

I don't think it's fair or reasonable to expect consumers to be required to read the terms and conditions thoroughly from beginning to end in order to understand important issues regarding what is and isn't covered. I think policyholders would be entitled to expect a restriction like an exclusion from cover for cancellation claims relating to a change in FCDO advice to be more prominent (for example, to be in the IPID).

I also think the exclusion from cover of cancellation claims arising from a change in FCDO advice isn't transparent enough. The section of the policy setting out what will be covered if the policyholder is unable to travel is at page 20. But the exclusions relating to travelling against FCDO advice aren't presented in the same place. I think the way the cancellation section of cover and the exclusions relating to travelling against FCDO advice are presented separately means their combined effect isn't clear.

Chaucer has said that, if Mr and Mrs H had wished to purchase cover for cancellation of a trip arising from changes in FCDO advice, they could have done so (at a higher premium). However, for the reasons I've set out above, I don't think it would have been obvious to Mr and Mrs H that they would have no cover whatsoever under this policy if FCDO travel advice to their destination changed after they bought the policy. And, even with a cooling off period allowing for the policy to be cancelled within 14 days of purchase, I think a consumer might not be able to easily understand the full effect of the policy.

In the circumstances, I think this is unfair and results in a significant imbalance between Mr and Mrs H and Chaucer. Mr and Mrs H were left without any cover at all when FCDO advice

changed and I think this shifted the rights and obligations under the contract significantly in Chaucer's favour. I think the terms and conditions didn't properly take Mr and Mrs H's interests into account and I'm not persuaded Mr and Mrs H would have freely agreed to a policy that left them without any cover in these circumstances if they'd realised that was how the policy would operate. If they had, they'd have been able to purchase alternative cover. At the time Mr and Mrs H bought their insurance, there were other travel insurance policies available on the market which would have covered the circumstances they subsequently found themselves in.

So, overall, I think the way the information about the cover available under this policy was presented wasn't fair and I don't think Chaucer was acting in the best interests of its customers when presenting the information in the way it did.

Therefore, I think the fair and reasonable outcome in the circumstances would be for Chaucer to treat Mr and Mrs H's claim as covered under the 'Cancellation Or Curtailment Charges' section of their policy, and to assess their claim in line with the remaining policy terms and conditions.'

Mr and Mrs H replied to my provisional decision and said they agreed they didn't realise they would have no cover under their policy if FCDO advice changed, especially as the policy was branded as 'Premier'.

Chaucer said it didn't agree with my provisional decision and sent a detailed response, which I've summarised as follows:

- Mr and Mrs H's policy operates on a specified perils basis of cover only. Cancellation of a trip due to a pandemic or changes in FCDO advice isn't a specified peril, so no cover exists for the losses Mr and Mrs H are claiming for;
- The premium charged for this policy was reflective of the level of cover provided and Mr and Mrs H's claim shouldn't be treated more favourably than those of others who have had their claims declined;
- The IPID clearly highlights that there is no cover for travelling against FCDO advice, and the policy wording is clear that this is a general exclusion which applies to the entire policy. Therefore, this exclusion was signposted to Mr and Mrs H. Furthermore, an exclusion for travelling against FCDO advice is common in the market and the exclusion isn't unfair;
- Mr and Mrs H had cover for the cancellation of a trip if cancellation arose from a cause specified in the policy. Changes to FCDO advice not being an insured peril does not equate to there being no cover under the policy;
- It's for the policyholder to read and understand their policy wording and supporting documentation. If Mr and Mrs H required a policy that covered cancellation due to changes in FCDO advice, then they could have purchased one that contained such cover.

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.

I understand and acknowledge that Mr and Mrs H's claim isn't covered under a strict interpretation of their policy terms and conditions. However, my over-riding remit is to decide

what I think is fair and reasonable in the individual circumstances of Mr and Mrs H's complaint. Regardless of what outcome has been reached in other cases, having considered the IPID and policy terms and conditions which are relevant to Mr and Mrs H's claim, I think it would be fair and reasonable for Chaucer to treat this claim as covered under the cancellation section of the policy.

An insurer is entitled to decide what level of risk it is prepared to accept in return for the payment of a premium but, for the reasons I've set out in my provisional decision, I don't think the way the information about the cover available under this policy was presented was fair.

While the IPID and general exclusions of the policy state that no cover is provided for travelling against FCDO advice, neither the IPID nor the policy terms and conditions state that no cover is provided for cancellation of a trip due to changes in FCDO advice.

I don't dispute that Mr and Mrs H would have had cover under the cancellation section of their policy if one of the listed events stated as insured under that section had happened. But the fact remains that Mr and Mrs H found themselves in a position of having no cover whatsoever under their policy when FCDO advice changed after they booked their trip – they had no cover for cancelling their trip and they'd also have had no cover whatsoever if they'd gone ahead and travelled regardless.

I think, if this had been made clear to Mr and Mrs H in their policy documentation, they'd have been in a position to buy alternative insurance cover which did cover cancellation due to changes in FCDO advice.

Therefore, I won't be changing my provisional decision.

Putting things right

Chaucer needs to put things right by assessing Mr and Mrs H's claim under the cancellation section of their cover, subject to the remaining terms and conditions of the policy including any excess and/or policy limits.

My final decision

I'm upholding Mr and Mrs H's complaint against Chaucer Insurance Company Designated Activity Company and I direct it to put things right in the way I've outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H and Mr H to accept or reject my decision before 3 January 2022.

Leah Nagle
Ombudsman