

The complaint

Mr and Mrs K and their adult son Mr K2 complain about Union Reiseversicherung AG's (URV) settlement of their travel insurance claim. Mr and Mrs K have power of attorney for Mr K2, due to his medical condition, so as they act for him in this matter I'll just refer to Mr and Mrs K as appropriate. They are represented by their insurance broker and my references to Mr and Mrs K include their representative. My references to URV include its agents.

What happened

Mr and Mrs K and Mr K2 are insured under an annual multi trip travel insurance policy, the insurer is URV. Mr and Mrs K booked and paid for a holiday in Europe for themselves and Mr K2.

Unfortunately they had to cancel the holiday as Mrs K had sudden serious ill health and was medically advised not to travel. They were able to cancel the travel without incurring cost. They claimed for the cost of the accommodation, £9,000, which wasn't refundable and £30 for the medical certificate fee.

URV accepted the claim but only partially settled the claim. As the booked accommodation was large (six bedrooms) URV asked for the names of people Mr and Mrs K had invited to stay with them and Mr and Mrs K gave the names of five other people who were family or friends. URV said the policy only covered Mr and Mrs K and Mr K2's proportion of trip costs, not the cost Mr and Mrs K paid on behalf of others. URV paid a settlement figure of £3,225, which is 3/8ths of the accommodation cost (£3,375) less the £50 excess each for Mr and Mrs K and Mr K2.

Mr and Mrs K complained to us. In summary they said:

- They'd paid the whole cost of the accommodation and didn't asked for, or receive, any contribution towards the cost from the other five people they'd invited.
- Their son, Mr K2, had complex medical needs (which they explained) and if the other people did come to stay they helped with respite care. They'd had the same arrangement in the same accommodation for several years and if anyone did visit at the accommodation historically they spent various amounts of times, not the whole holiday.
- Even if the people they had invited didn't come they still would have gone to the same accommodation as it was a safe environment for their son where he felt secure and had suitable facilities. It was important that their son had space as he makes a lot of noise so they don't want to be close to neighbours and he knew the accommodation which meant he coped better.
- The other five people had no financial interest in the cost of the accommodation and wouldn't have been in a position to make a claim under any insurance policy they may have had so there was no possibility of a double claim if URV was concerned about that.

- They'd selected the highest possible coverage under the policy, with each insured person covered up to £5,000 in the event of cancellation, so they would be covered for the full amount if they had to cancel.

Mr and Mrs K also provided signed statements from the five other people who had been invited which said they hadn't financially contributed to the cost of the accommodation.

Our investigator said URV fairly declined the claim.

Mr and Mrs K disagreed and wanted an ombudsman's decision. They added that they with their son had been to this accommodation about twelve separate times and on three of those times they'd been on their own the whole time. The accommodation suited their son's medical needs and URV knew about those medical needs as they'd declared the condition when they bought the policy.

I made a provisional decision that I was intending to uphold the complaint. I said:

'Industry rules say insurers are required to deal with claims fairly and promptly. And they mustn't turn down claims unreasonably.

The policy terms

On page 8 of 19 the policy says:

'Section A1 cancellation

For each insured-person this insurance will pay:

under your selected cover option, as specified in your Policy Schedule, up to:

...

£5,000 Super Duper cover

for your proportion of:

- i) transport charges,*
- ii) loss of accommodation...*

booked before you go on your trip, that you have paid or agreed to pay and that you cannot recover from any other source following your necessary cancellation after you bought this insurance and limited to the cancellation charges at the time of diagnosis of the condition causing the cancellation of your trip through your inability to commence travel due to:

(i) the death, injury or illness of:

- you or a travelling companion'.*

On page 4 of 19 the policy says:

'Policy information

Cover is specified for each passenger who is shown as having paid the insurance premiums and whose name is shown on the Policy Schedule.

This insurance wording is a copy of the master policies and is subject to the terms, conditions and exclusions of the master policies.

In the event that you have paid for a trip on behalf of other individuals not insured on this policy please be advised that your policy only provides cover for your proportion of trip costs, as opposed to the amount you have paid on behalf of others'.

Did URV fairly settle the claim?

I'm intending to uphold the complaint as I don't think URV fairly settled the claim.

In these particular circumstances I don't think Mr K and Mrs K paid for the accommodation on behalf of the other five people they'd invited to stay with them. I'm satisfied from what they've said that due to Mr K2's needs due to his medical condition they would have booked this same accommodation whether or not the other people had visited them. The policy is marketed as specialist travel insurance for people with medical conditions and disabilities and Mr and Mrs K have detailed how the accommodation meets their son's specific needs due to his condition, which was declared and is covered by the policy.

The correspondence between the accommodation provider and Mr and Mrs K shows they've been to the same accommodation many times before. I've no reason to doubt that on some of those occasions it was just the three of them staying. I've also found what they've said about the circumstances and their son's condition to be credible and persuasive.

So I think Mr and Mrs K and Mr K2's proportion of the accommodation cost is the whole cost of the accommodation in the circumstances of this case. They hadn't made a payment on behalf of other people as they weren't expecting the money to be returned to them. They booked accommodation for themselves, but gave others the option to join them if they wanted to. Therefore I don't think the policy term URV relied on to pay the partial settlement applies in these circumstances. The whole cost of the accommodation, £9,000, is covered by the cancellation section of the policy.

Even if I thought that on a strict interpretation of the policy terms the policy term did apply, I wouldn't think it fair and reasonable for URV to apply the term to limit the claim settlement. As I've outlined above Mr and Mrs K booked the accommodation for themselves and had previously been happy to go on holiday as a party of three. So I don't think it's fair and reasonable to conclude that they were paying on behalf of other family and friends who may (or may not) join them. The arrangement appears to have been very flexible and I can see that Mr and Mrs K paid the whole amount to the accommodation provider. Their family members and friends have also confirmed the arrangements, which had been in place for many years. So I think it's fair and reasonable to conclude that Mr and Mrs K and Mr K2's proportion of the costs is the full cost of the accommodation.

I think the fair and reasonable outcome is for URV to pay the whole of the accommodation cost. URV should pay the balance of the cost taking into account the settlement it's already paid, plus interest as I've detailed below. It's already deducted the £50 excess per person from the settlement.

Also, I note the policy says that in the event of a claim under the cancellation section URV will *'pay a maximum of £80 to your doctor for medical records/completion of a medical certificate, that have been requested by us'*.

I understand URV asked Mr and Mrs K for a medical certificate in support of Mrs K's illness for the cancellation claim and she paid the GP £30 for the medical certificate, which she claimed. So URV should also pay the £30 fee'.

Mr and Mrs K accepted my provisional decision. URV said it had nothing further to add.

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 Mr and Mrs K accepted my provisional decision and URV said it had nothing further to add I've no reason to change my mind. For the reasons I've given in provisional decision and this decision I uphold this complaint. I don't think the policy term URV relied on to pay the partial settlement applies in these circumstances and it's fair and reasonable to conclude that Mr and Mrs K and Mr K2's proportion of the costs is the full cost of the accommodation. Also under the policy terms URV should pay Mrs K's £30 medical certificate fee.

Putting things right

URV must pay Mr and Mrs K's and Mr K2's full claim for the accommodation costs, less the part settlement it's already paid (the excesses having already been deducted) plus interest as detailed below. URV must also pay Mrs K's £30 medical certificate fee.

My final decision

I uphold the complaint.

I require Union Reiseversicherung AG to pay:

- Mr and Mrs K's and Mr K2's full claim for the accommodation costs, less the part settlement it's already paid (the excesses having already been deducted). Interest* must be paid on the balance payment at 8% a year from the date of claim to the date of settlement, and
- the £30 medical certificate fee.

*If Union Reiseversicherung AG considers that it's required by HM Revenue & Customs to take off income tax from that interest it should tell Mrs and Mr K and Mr K2 how much it's taken off. It should also give Mrs and Mr K and Mr K2 a certificate showing this if they ask for one, so they can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K, Mrs K and Mr K2 to accept or reject my decision before 16 March 2022.

Nicola Sisk
Ombudsman