

The complaint

Ms A is unhappy that AXA Insurance UK Plc (AXA) declined her travel insurance claim.

Any reference to AXA includes all its agents.

What happened

Ms A has a worldwide multi-trip travel insurance policy alongside her current account. The policy is underwritten by AXA.

In January 2020, Ms A booked a two-part kayaking course within the UK. Part 1 of the course was due to take place from 1 June 2020 to 5 June 2020 and Part 2 was due to take place from 26 July 2020 to 1 August 2020. Ms A had to also book a ferry in order to travel to Part 2 of the course.

Due to the Covid-19 pandemic, Ms A contacted the course provider on 24 May 2020 to ask whether the course would be going ahead. She was informed that it would not be going ahead. So, Part 1 and 2 were both cancelled on 4 June 2020. Part 1 was non-refundable and the deposit for Part 2 was refunded by the provider.

On 18 June 2020, Ms A cancelled the ferry booking as the course was cancelled and she therefore no longer needed to travel. She received an 80% refund of the ferry ticket.

Ms A submitted a claim to AXA for Part 1 of the course that was non-refundable and also the 20% remaining part of the ferry ticket. AXA assessed the claim and settled the cost of Part 1 of the course. However, it declined the claim for 20% of the ferry ticket (£40.43) as it said there was a disinclination to travel on Ms A's part. It also said Ms A cancelled the ferry ticket more than 28 days prior to her departure date. So, there was no cover under her policy for the cost of the ferry ticket. AXA said that even if there was cover for this cancellation under the policy, a £50 excess would apply and therefore the claim of £40.43 would mean there was no financial loss suffered. This is because the claim would be treated as two different claims therefore the £50 excess would apply each time.

Unhappy with AXA's response, Ms A brought her complaint to this service. Our investigator looked into the complaint. She didn't uphold it and said Ms A had no cover under her policy for the circumstances she found herself in. As Ms A cancelled the ferry ticket more than 28 days before the intended travel date, there was no cover under the terms and conditions of the policy for this. She didn't think AXA had declined the claim Ms A unfairly.

Ms A disagreed with the investigator and asked for the complaint to be referred to an ombudsman. So, it's been passed to me. In summary she said:

- She booked both parts of the course at the same time in January 2020 and the purpose of these was to give her sufficient training to sea kayak.
- There were government restrictions in place when the first part of the course was due, and this resulted in the course being cancelled. She would not have been able to complete Part 1 before Part 2 was due to take place.

- Part 1 and Part 2 were directly linked so the claim was Covid-19 related and based on the restrictions in place by the FCO at the time.
- It was agreed by AXA that only one excess would apply as both parts related to the same claim.

I issued a provisional decision on 16 February 2022. I said my intention was to uphold the complaint subject to further comments and evidence from both parties. I said the following:

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

The insurance industry regulator, the Financial Conduct Authority ('FCA'), has set out rules and guidance for insurers in the 'Insurance: Conduct of Business Sourcebook' ('ICOBS'). ICOBS says that insurers should act honestly, fairly and professionally in accordance with the best interests of their customers, and that they should handle claims promptly and fairly and shouldn't unreasonably reject a claim.

The policy terms and conditions

I've started by looking at the terms and conditions of Ms A's travel policy with AXA as this forms the basis of the insurance contract she has with AXA.

Page 31 of the policy booklet sets out "What is covered" under the Cancellation section of the policy.

"Section 2: Cancellation/Cutting Short Your Trip

*This section of **Your** policy explains the cover **We** provide if **You** cancel or cut short **Your Trip**. Words with special meanings are printed in bold type and can be found in the 'Words with special meanings' section.*

*Please note Cancellation cover terminates at the start of **Your Trip**.*

What IS covered:

We will pay **You** up to £5,000 for **Your** share of the cost of **Your Trip** as a result of:

- *the death, injury or illness, as certified by a medical practitioner, of **You**, **Your Relative** or **Colleague** or travelling companion or a friend or **Relative** with whom **You** had arranged to stay; or*
- ***Your** attendance at a court of law as a witness (but not as an expert witness) or for Jury Service where postponement of the Jury Service has been denied by the Clerk of the Courts Office; or*
- ***You** or **Your** travelling companion is a member of the Armed Forces, Police, Ambulance, Fire or Nursing Service and authorised leave is cancelled due to an unexpected emergency or a posting overseas at the time of **Your Trip**; or*
- ***You** or **Your** travelling companion are instructed to stay at **Home** (within 14 days of **Your** departure date) or return **Home** by a relevant authority due to severe damage to **Your Home** or place of business in the **UK** caused by serious fire, explosion, storm, flood, subsidence or burglary; or*
- *the Foreign & Commonwealth Office (FCO) declaring either of the following:

 - ***Your** compulsory quarantine preventing **You** from travelling*
 - ***Your** destination is unsafe to visit and they advise against all travel; or**
- ***Your Redundancy** or that of **Your** travelling companion or **Your** spouse (including a civil partner or co-habitee) notified to **You** after opening **Your** Ultimate Reward Current Account or after the date the **Trip** was booked, whichever is the later; or*
- ***Your** cancellation of the **Trip** as a result of a Travel Delay (Section 5) where*

*the delay is in excess of 12 hours from the first international departure time specified in **Your** official itinerary.”*

AXA says Ms A’s cancellation claim wasn’t related to the FCO advising against travel for when Part 2 of the course was due to take place. It says Ms A confirmed this. So, based on this, strictly speaking, the claim wouldn’t be covered under the terms and conditions of her policy.

However, Ms A has said in her submissions there was confusion on this point and the cancellation of Part 2 was linked to the cancellation of Part 1. AXA has already settled the claim for cancelling Part 1. She says she booked the course as one course with two parts on the same day and when she cancelled the course, she cancelled both parts on the same day too. There was no other reason except for FCO guidance advising against travel due to Covid-19 for her to cancel the entire course and the ferry ticket.

I’m satisfied this was the reason for cancellation of the course (and the two separate parts) and the ferry ticket. Therefore, I think she does have cover for this event under the terms and conditions of her policy.

I’ve gone on to therefore consider the Travel Disruption section of the policy. On page 34 of the policy booklet, it says:

“What is covered: Before You reach Your destination:

1. We will pay You up to £5,000 for Your unused travel, accommodation and other Pre-paid Charges that You cannot claim back from any other source if You cannot travel and have to cancel Your Trip as a result of:

...

c) The Foreign & Commonwealth Office (FCO) or other regulatory authority in a country to/from which You are travelling advising against all travel or all but essential travel to the country or specific area You are travelling to providing the advice came into force after You opened Your account or made Your travel arrangements for this Trip (whichever is the later) and was within 28 days of Your departure date.”

Looking at the second part of the claim for the cost of the ferry ticket, there is scope for cover for what happened in this situation. I’ll go on to consider the claim in the next section as the key point in dispute here is that AXA believe the ferry ticket was cancelled more than 28 days of Ms A’s departure date and therefore there is no cover under the policy. AXA also say there was a disinclination to travel on Ms A’s part.

Should the claim be declined?

As a strict interpretation of the policy terms and conditions, I can see why AXA has declined the claim. Ms A cancelled the ferry ticket more than 28 days of the departure date.

However, my remit permits me to consider what’s fair and reasonable in the circumstances of each complaint. I’ve thought carefully about what’s happened.

Ms A booked a two-part course - the second part of the course was directly reliant on the first part having been completed. My understanding is that there were still travel restrictions in place due to Covid-19 when the first part was due to take place on 1 June 2020. I’m also of the understanding the entire course (both part 1 and part 2) was cancelled as a direct result of the Covid-19 pandemic and specifically because there were travel restrictions put in place by the FCO. Having reviewed Ms A’s submissions to us, because the two parts of the course was directly reliant on each other, even if Ms A had wanted to continue and attend the second part, there would have been no benefit whatsoever for her to have done so. The sole reason that she booked onto the course (which consisted of two parts) was to achieve a

qualification for her to sea kayak. And not having been able to attend the first part, there was no reason for her to attend the second. I think therefore a reasonable course of action to take was to cancel both parts of the course and any travel arrangement associated with the course. I don't think there was ever a disinclination to travel but simply that there was no reason for Ms A to travel to a destination where the course had already been cancelled.

I appreciate AXA has decided that Ms A has made two separate claims. However, I don't agree. Ms A cancelled the ferry ticket because she would never have attended the second part of the course knowing she couldn't complete the first part. So, even if she had waited to cancel the ferry ticket and did so within 28 days of the departure date, the result would have been no different. I'm not persuaded that in cancelling the ferry ticket outside of the 28-day requirement, AXA has been prejudiced or disadvantaged in any way as the result either way would have been the same.

The two claims as AXA has suggested there are here, I think should be treated as one and are directly linked. I say this because the cause of the cancellation for both parts of the course was because of the Covid-10 pandemic and because of the travel restrictions that had been in put in place by the FCO at the time. While I accept there are occasions when claims would need to be treated separately, in the circumstances of what happened here, I'm satisfied they are very much linked.

How should the excess be applied?

Strictly speaking, if there are two claims under a policy, then a separate excess would apply to each claim. So, again, I can see why AXA has said that £50 would apply to the cancellation claim of the ferry ticket. It already applied an excess to the first part of the claim for a refund for Part 1 of the course and it would do so for the cancellation of the ferry. AXA says therefore the claim of £40.43 would cancel out as the excess that would apply on the is £50. That would mean that Ms A would show a resulting effect of not having suffered a financial loss.

I appreciate what AXA has said. However, as I have said above, I don't think the claim should be treated as two separate claims but as one claim. The circumstances of what happened here meant that the entire course had to be cancelled (Part 1 and Part 2) and any travel arrangements associated with that.

I note too that in an email sent to Ms A by AXA on 9 June 2020, it confirmed only one excess would apply for both claims and that £50 had been deducted for the first claim.

I don't think therefore that by separating the claims in this way would be treating Ms A fairly and reasonably. As such, I think only one excess of £50 should apply and, as this has already been applied, the claim for cancelling the ferry ticket should now be settled with no further excess deducted.

Conclusion

In all the circumstances of this complaint, I think it would be fair and reasonable for AXA to accept Ms A's cancellation claim. I'm not persuaded that the claim has been declined fairly or that a second excess should apply. My provisional decision is that AXA should pay the remainder of Ms A's claim, together with interest.

AXA needs to put things right and would need to do the following:

- Pay Ms A's cancellation claim, subject to any other policy limits, together with interest at 8% simple per annum from the date of the claim until the date the settlement is paid; and

- *If AXA considers that it's required by HM Revenue and Customs to deduct income tax from that interest, it should tell Ms A how much it has taken off. It should also give Ms A a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue and Customs if appropriate.*

In response to my provisional decision, both parties replied and accepted it.

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 both parties replied and accepted my provisional decision, I see no reason to depart from what I've said in this.

I confirm therefore that I think it would be fair and reasonable for AXA to accept Ms A's cancellation claim. I'm not persuaded the claim should be declined and that a second excess should be applied either. AXA should therefore pay the remainder of Ms A's claim, together with interest.

Putting things right

AXA needs to put things right and would need to do the following:

- Pay Ms A's cancellation claim, subject to any other policy limits, together with interest at 8% simple per annum from the date of the claim until the date the settlement is paid; and
- If AXA considers that it's required by HM Revenue and Customs to deduct income tax from that interest, it should tell Ms A how much it has taken off. It should also give Ms A a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue and Customs if appropriate.

My final decision

For the reasons given above, I uphold Ms A's complaint against AXA Insurance UK Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms A to accept or reject my decision before 28 March 2022.

Nimisha Radia
Ombudsman