

The complaint

Mr G complains because Astrenska Insurance Limited hasn't paid a claim for a cancelled holiday under his travel insurance policy.

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

What happened

Mr G booked a holiday on 3 March 2020 and bought a single trip travel insurance policy, provided by Astrenska, on 9 March 2020. He was due to fly into a country which I'll call 'S' on 15 March 2020 and, from there, travel to and stay at a ski resort in a country which I'll call 'F' until 22 March 2020.

On 11 March 2020, the World Health Organisation declared Covid-19 as a pandemic. On the evening of 14 March 2020, Mr G's airline cancelled his upcoming flight. The airline said it was cancelling all flights to Mr G's intended destination because of local measures introduced throughout S to prevent the spread of Covid-19. On the same evening, the ski resort in F where Mr G was intending to stay said:

'Following the announcements made by the Prime Minister this evening, please be informed that ... is obliged to close all its ski areas, tourist sites & mountain restaurants as of tomorrow morning, Sunday 15th March 2020 until further notice.'

Mr G was unable to travel and he made a claim under his policy with Astrenska for his unused, non-refundable accommodation costs.

Astrenska initially told Mr G his claim didn't fall within the cover provided by his policy, and that his accommodation provider should give him a full refund. Astrenska subsequently said there were no travel restrictions in force on 14 March 2020, so Mr G's claim wasn't covered under his policy.

Mr G complained to Astrenska, who maintained its position about the claim but paid Mr G £30 compensation for its delays in assessing the matter. Unhappy, Mr G brought his complaint to our service.

One of our investigators looked into what had happened and said he thought Astrenska should reassess Mr G's claim and pay him £100 compensation for its errors and delays. Astrenska didn't agree with our investigator's opinions, so the complaint has been passed to me to decide.

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.

Industry rules set out by the regulator (the Financial Conduct Authority ('FCA')) say insurers should handle claims promptly and fairly, shouldn't unreasonably reject a claim and should

provide a policyholder with appropriate information on a claim's progress. I've taken these rules into account when making my decision about Mr G's complaint.

The terms and conditions of Mr G's policy say that Astrenska will pay for certain costs if a holiday is cancelled for one of a list of specified, insured reasons. These include:

'7. a government directive prohibiting all travel to the country or area you were planning to visit, as a result of a natural disaster (e.g. earthquake, fire, flood, hurricane or epidemic).'

Based on the evidence available to me, I can't fairly say that a directive which prohibited all travel had been issued by the governments of S, F or the UK on 14 March 2020. This means that I don't think Mr G's claim is covered under the terms and conditions of his policy.

However, my over-riding remit is to reach an outcome that's fair and reasonable in all the circumstances and I don't think a strict interpretation of the policy terms and conditions produces a fair and reasonable outcome in this case. This is because I think there's clear evidence that the reason Mr G's airline cancelled all its flights to his intended destination was because of local government restrictions in S as a result of the Covid-19 pandemic. Mr G's airline confirmed this in an email to him at 21.00 on 14 March 2020.

While I haven't been able to confirm the exact time of the announcement made by the Prime Minister of F on the evening of 14 March 2020, I'm satisfied it's likely this announcement was made within a maximum of an hour of Mr G's airline cancelling his flight.

So, based on the very specific facts of this case, I'm satisfied that the reason for Mr G's inability to travel was government directives in S and F. Regardless of the fact that Mr G's airline's announcement may have come up to an hour before the announcement by the Prime Minister of F, I think that government directives in S and F were the underlying reason for this claim. While the directives might not have prohibited all travel, I think the *effect* of the directives was that Mr G was prohibited both from travelling to S and from staying in the area in F where he'd booked to visit.

For the avoidance of doubt, I'm satisfied that a pandemic is simply a more wide-ranging version of an epidemic. So, I think the examples of a 'natural disaster' which are set out in Mr G's policy can fairly be considered to include pandemics as well as epidemics. Overall, this means I think it would be fair and reasonable in the circumstances for Astrenska to treat Mr G's claim as being covered under the cancellation section of his policy.

Astrenska also said it thought Mr G's claim wasn't covered under his policy because of an exclusion which says the following are not covered:

'15. any costs recoverable from another source;.'

Astrenska says Mr G's accommodation provider is liable to repay the costs of his accommodation booking to him. However, Mr G has provided evidence that his accommodation provider isn't willing to give him a refund, and his accommodation booking doesn't benefit from the protection provided by The Package Travel and Linked Travel Arrangements Regulations 2018. I've seen no evidence to suggest that Mr G is entitled to make a S75 claim or a chargeback claim against his bank.

So, it appears that Mr G's only recourse would therefore be to take his accommodation provider to court to recover his money. I've considered whether I think this is a fair or reasonable position for Mr G to be left in. In doing so, I've read all the information which Astrenska has sent to us. I've also had regard to guidance published by the FCA on

cancellation and refunds, which says the FCA would generally view it as unreasonable to expect consumers in certain situations to go to court to recover their money. I've also taken into account Astrenska's subrogation rights under its contract with Mr G, as well as the fact that Mr G has paid a premium to purchase this policy in return for Astrenska assuming certain risks on his behalf.

Overall, I don't think it's fair or reasonable for Astrenska to rely on the policy exclusion which I've quoted above to turn down Mr G's claim.

In response to our investigator's opinions, Astrenska said it considers the cancellation of Mr G's holiday was predictable. However, I'm not aware of any travel insurer that had publicly stated it considered Covid-19 to be a reasonably foreseeable issue or event which it didn't wish to insure at the time Mr G bought his policy on 9 March 2020. And, while I appreciate Astrenska wasn't responsible for the sale of this policy, I'd expect any proposed exclusions about Covid-19 to have been made clear to policyholders when buying their policy.

I've considered the delays, and the conflicting information which I think was provided to Mr G, by Astrenska in this case. While I've borne in mind the unexpected and unprecedented challenges which the Covid-19 pandemic presented to travel insurers, I think an overall payment of £100 would be fair and reasonable compensation for the impact the situation had on Mr G.

Putting things right

Astrenska Insurance Limited needs to put things right by reassessing Mr G's claim under the cancellation section of his policy, subject to the remaining terms and conditions.

Astrenska Insurance Limited also needs to pay Mr G a total of £100 compensation for the distress and inconvenience he experienced. This includes the £30 compensation already paid.

My final decision

I'm upholding Mr G's complaint against Astrenska Insurance Limited 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 Mr G to accept or reject my decision before 2 June 2022.

Leah Nagle
Ombudsman