

The complaint

Mr and Mrs P are unhappy with the settlement they've been provided with by Aviva Insurance Limited, after making a claim under their travel insurance policy.

What happened

Mr and Mrs P have explained they went abroad on holiday, on 5 March 2020. They were due to return to the UK on 30 March 2020. But just over a week before they were due to fly home, the country they were in imposed some country-wide restrictions on air travel. Mr and Mrs P explained that the country stopped all commercial flights in and out of the country.

Initially these restrictions were supposed to start from 22 March 2020, for a week. But the country Mr and Mrs P were in extended these restrictions – so that Mr and Mrs P weren't able to travel home on their scheduled flight, due to board on 30 March 2020. It was cancelled. This meant Mr and Mrs P had to stay abroad longer than they originally planned.

Mr and Mrs P said they therefore had to pay for accommodation for their extended stay abroad, as well as food. And they had to pay for a repatriation flight home. This was after following the process to get a repatriation flight – which meant registering with the country's high commission, who arranged for Mr and Mrs P to be repatriated when there was a flight available.

Because Mr and Mrs P incurred these additional costs, they made a claim under their travel insurance policy. Aviva paid for Mr and Mrs P's additional accommodation costs, which were £1,155 – but it took off an excess of £50 per person. And it paid Mr and Mrs P for the difference in cost between their original flight home, and the repatriation flight they needed to get. In total, Mr and Mrs P were paid £1,403.

Aviva said that Mr and Mrs P didn't have cover under their policy for these costs. It said the enforced stay section of Mr and Mrs P's policy didn't provide cover when the airport or airspace wasn't closed. But it said it had extended the enforced stay section of cover, as a gesture of goodwill to allow for payment, but up to the limit applicable under the cancellation section of the policy.

Mr and Mrs P didn't agree with this. They said that the airport was closed – with all commercial flights both in and out of the country being stopped. So, the enforced stay section of their policy applied anyway.

Aviva responded to Mr and Mrs P and apologised for saying the airport wasn't closed, when it was indeed shut. But it said this didn't alter the outcome of the claim, as the policy would only cover the additional costs Mr and Mrs P incurred, on the enforced stay benefit amount, not both. It said this was stated in the policy wording.

Because Mr and Mrs P remained in disagreement with this, they referred their complaint to this service, for an independent review.

Our investigator reviewed the complaint and didn't think it should be upheld. They said that Mr and Mrs P had been paid for the additional costs they incurred by Aviva, and that was what the policy was designed to do. So, they didn't recommend Aviva do anything more.

Mr and Mrs P disagreed. They reiterated that they felt the cover under their policy allowed for them to be provided with a settlement for £1,500 each. So, a settlement of £3,000 in total. Because Mr and Mrs P disagreed, this complaint has been referred to me to decide.

I issued my provisional decision on this complaint, to the parties. In this I said:

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

Having done so, I'm currently minded to uphold this complaint and require Aviva Insurance Limited to pay Mr and Mrs P an additional £1,397, plus interest. I've explained this further – and why I think this is fair and reasonable, below.

When considering a complaint such as this, I need to consider the relevant law, rules and industry guidelines. In this case, the relevant rules, set up by the Financial Conduct Authority, say that an insurer must deal with a claim promptly and fairly. So, I've thought about whether Aviva, in providing Mr and Mrs P with a settlement of £1,403, did so fairly. And I don't think it did.

I say this because I've reviewed Mr and Mrs P's policy booklet, which provides the full terms and conditions of their cover. And in this, I'm aware Mr and Mrs P have cover under a section called 'Enforced Stay Abroad.'

*This section explains that if a policyholder is provided with cover if they are;
"...unable to return **home** on **your** scheduled return date due to:*

- a. the airspace being closed; or*
- b. the airport or port that **you** are scheduled to travel from or through being closed; or*
- c. **your** flight being cancelled as a direct result of volcanic ash in the atmosphere."*

Aviva initially said the airspace, and airport Mr and Mrs P were due to fly from wasn't closed. And then later apologised for this mistake – as the airport was indeed closed. I've also looked at the evidence supplied by the parties, which includes information from the High Commission in the relevant country, about the situation with flights. And I've looked at communications from the High Commission online myself, for when Mr and Mrs P were due to fly home.

From doing so, I can see that the country Mr and Mrs P were in did ground all international passenger flights in and out of the country, starting from 22 March 2020. Meaning the airspace was closed at that point too.

This was initially to be for a week – but this was extended. The information from the High Commission explains that repatriation flights from Mr and Mrs P's destination, to the UK, began on 13 April 2020. The High Commission asked those in the country to contact it, and they would be put on a list for repatriation. It also asked for anyone with vulnerabilities to let them know – essentially so they could be repatriated first. There were then flights on 13 April 2020, 17 April 2020, 15 April 2020 and then 20 April 2020 – which is the flight Mr and Mrs P were offered, and they boarded.

Given this information, I'm satisfied the airport was closed to international passengers, at least until 13 April 2020. And I'm pleased to see Aviva has now acknowledged this in this instance, as that seems fair and reasonable in Mr and Mrs P's situation.

So, Mr and Mrs P's circumstances do fall under the 'Enforced Stay Abroad' section of their policy.

I've also looked at what settlement this section of the policy provides. And it says;
"we will pay **you**;

1. £100 per **insured person** for every full 24 hour period you are unable to return **home**, or
2. up to £1,000 per **insured person** in respect of necessary and reasonable additional travel and accommodation expenses where, after a period of 24 hours or more, **you** unavoidably have to make immediate alternative arrangements to return **home**.

Special conditions

1. Where **you** claim under item 1 above,
 - **we** will work out the length of your enforced stay abroad from the date and time of **your** scheduled departure as shown on **your** ticket/itinerary
 - **you** must obtain written confirmation from **your** carrier or handling agents of the actual date and time of your return to the **UK**
2. Payment under item 2 will only be considered where **your** carrier or handling agents have not been able to offer **you** suitable alternative accommodation and/or travel arrangements. All claims must be supported by documentary evidence of the costs **you** have incurred.

The most we will pay for each insured person is

(...)

1. £1,500 under items 1 above
2. £1,000 under item 2 above.'

Mr and Mrs P weren't able to return home as planned on 30 March 2020, until 20 April 2020 - and they had needed to source accommodation themselves for their extended stay. I'm aware Mr and Mrs P have provided Aviva with evidence for this. And this evidence isn't disputed. Aviva has paid Mr and Mrs P £1,403 as a result of this evidence.

But the policy wording above doesn't explain whether Mr and Mrs P's claim should be paid under option one or two of the term. Both options apply in this circumstance.

If the claim was paid under option one – Mr and Mrs P would be entitled to £100 each, for each 24 hour period they were forced to stay abroad – up to a limit of £1,500 each. The airspace opened for passengers back to the UK, as far as I can tell, on 13 April 2020. So according to the policy, Mr and Mrs P can claim £100 for every 24 hours, until 13 April 2020, when the airspace re-opened. It is 14 days from the date of their original flight, to the date the airspace opened. Meaning an entitlement under this option of £1,400 each - £2,800 in total.

If the claim was under option two – Mr and Mrs P would be entitled to their additional expenses for flights and accommodation. For which evidence of £1,403 has already been received and paid by Aviva.

So, Mr and Mrs P could claim under the higher of the two options – option one in their case, and be paid for every 24 hours since their scheduled departure, until 13 April 2020. Or, under option two, which provides them with up to £2,000 for the actual costs they incurred for alternative accommodation and travel arrangements, and which came to £1,403.

Aviva has essentially paid Mr and Mrs P under option two – for the additional alternative travel and accommodation arrangements. But, I think it's reasonable to read the above terms of the policy, giving Mr and Mrs P the benefit of the doubt. I say this because I think the policy term is ambiguous – and where this is the case, it's fair to read the term in favour of the party that didn't draft it. Aviva hasn't specified in the policy whether, when both option one and two apply, the higher or lower of the two options should be paid. And so I think it's reasonable that in Mr and Mrs P's circumstances they would read that they were entitled to the more favourable option of the two.

As above, that means Mr and Mrs P would be entitled to £2,800 in total. Mr and Mrs P have already been paid £1,403. So, Mr and Mrs P are due a further £1,397. There is no excess applicable to the enforced stay section of the policy – and so no excess for Aviva to take from this amount.

And, because they've been without the £1,397 Mr and Mrs P should be provided with 8% interest on this amount, as detailed below."

Mr and Mrs P responded, and agreed with the provisional decision. Aviva didn't respond.

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.

Neither party has provided me with additional evidence or comments to alter the provisional decision noted above. And so, my final decision does remain the same as that of my provisional decision, and for the same reasons.

My final decision

Given the above, my final decision is to uphold this complaint, and require Aviva Insurance Limited to:

- Pay Mr and Mrs P an additional £1,397.
- Pay Mr and Mrs P 8% interest on this amount, simple per annum, from the date of loss, to the date of settlement, less any tax properly deductible. If HM Revenue & Customs requires Aviva to deduct tax from this interest Aviva should give Mr and Mrs P a certificate showing how much tax it's deducted, if they ask for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P and Mr P to accept or reject my decision before 17 May 2022.

Rachel Woods
Ombudsman