

## **The complaint**

Mr and Mrs K complain that Great Lakes Insurance SE has turned down a cancellation claim they made on their travel insurance policy.

## **What happened**

On 20 October 2021, Mr and Mrs K booked a trip abroad. They were due to depart on 13 November 2021. On 21 October 2021, they took out an annual travel insurance policy. Cover began on the policy began that day.

Sadly, on 9 November 2021, Mrs K's father, who I'll call Mr E, was diagnosed with two types of advanced cancer. Their travel agent was unable to provide Mr and Mrs K with any refund of their booking costs. So Mr and Mrs K cancelled their holiday and made a claim on their travel insurance policy for the costs associated with the cancellation of their trip.

Great Lakes turned down the claim. It noted from the medical certificate completed by Mr E's GP that Mr E had first consulted about his illness on 14 September 2021. And it understood that Mr E had been referred for tests, which had resulted in his eventual diagnosis. The policy excluded claims arising from a policyholder's relative's pre-existing medical conditions. Based on the available evidence, Great Lakes concluded that Mr and Mrs K had been aware of Mr E's medical condition when they took out the policy and so it concluded their claim wasn't covered.

Mr and Mrs K were unhappy with Great Lakes' decision and they asked us to look into their complaint. They said Mr E had been thought to be suffering from a hernia or an ulcer. They'd had no idea that he was or could be suffering from cancer and they wouldn't have booked a holiday if they'd known. And they said that one of the cancers was wholly separate and was only discovered during other tests.

Our investigator thought Mr and Mrs K's complaint should be upheld. She noted that the GP's medical certificate stated that Mr and Mrs K couldn't have been aware of or anticipated Mr E's illness at the time the policy was taken out. Therefore, she didn't think it was fair for Great Lakes to turn down the claim and she recommended that Great Lakes should pay it. And she thought that Great Lakes' handling of the claim had caused Mr and Mrs K trouble and upset at an already distressing time. So she recommended that Great Lakes should pay Mr and Mrs K £100 compensation.

Great Lakes disagreed. It maintained that the circumstances of the claim were specifically excluded by the policy terms and conditions. And it said that as Mr E had been under investigation at the time the policy was taken out, Mr and Mrs K had been aware of his medical condition.

The complaint's 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.

Having done so, I don't think it was fair for Great Lakes to turn down Mr and Mrs K's claim and I'll explain why.

First, I'd like to offer my sincere condolences to Mr and Mrs K and their family for the loss of Mr E, who I understand sadly passed away earlier this year. I don't doubt what an upsetting time this has been for them.

The relevant regulator's rules say that insurers must handle claims promptly and fairly. And that they mustn't turn down claims unreasonably. So I've considered, amongst other things, the terms of Mr and Mrs K's policy and the available evidence, to decide whether Great Lakes treated them fairly.

I've first turned the policy terms and conditions, as these form the basis of the contract between Mr and Mrs K and Great Lakes. It's common ground that the cancellation section of the policy covers the cancellation of a holiday due to the illness of a policyholder's relative. I'm satisfied that Mr and Mrs K have shown that their trip was cancelled due to Mr E's diagnosis and illness.

Pages 10 and 11 set out a 'declaration' of important questions relating to a policyholder's and their relatives' health. The policy says:

*'There is no cover for claims relating directly or indirectly to the Pre-existing Medical Conditions of any Insured Person or of others on whom Your trip may depend unless they are declared to Us and We accept them in writing. Please declare Pre-existing Medical Conditions by screening them by calling Our Medical Screening Helpline...'*

Great Lakes has included the following definition as part of its wider definition of a pre-existing medical condition:

*'Any medical condition suffered by an Insured Person, a Relative, Colleague, or someone with whom You are going to travel or stay which could reasonably be expected to give rise to a claim, that You or any Insured Person was aware of before this Policy was bought, or an Insured Journey was booked or started, whichever is later.'*

Most of the declaration questions relate to a policyholder's health. But question eight asks:

*'Is any Insured Person, or Relative or Colleague of an Insured Person, or someone with whom You are going to travel or stay, suffering from a medical condition which could reasonably be expected to give rise to a claim? If No, please proceed to the next question....'*

Question 9 asks: *'Are You or any other Insured Person currently aware of any other circumstances which are likely to lead to a claim being made under this Policy?'*

If the answers to the questions are no, then the declaration section says that a policyholder doesn't need to contact Great Lakes.

The cancellation section of the policy includes a list of events which Great Lakes excludes from cover. One of these is:

*'Any claim arising from circumstances that could reasonably have been anticipated at the time the trip was booked or the Policy was purchased, whichever is later.'*

The policy also lists a specific set of 'General Exclusions' which apply to all claims. One of these says that Great Lakes won't cover: *'Any Pre-existing Medical Condition(s) unless the appropriate additional premium has been paid and they have been accepted by Us in writing.'*

Great Lakes considers that Mr E was suffering from a pre-existing medical condition at the time of taking out the policy, as he was under investigation. And it considers that Mr and Mrs K were aware of this and could've reasonably anticipated that they might need to make a claim. So I've considered the available evidence to decide whether this was a fair conclusion for Great Lakes to draw.

I've looked closely at the medical certificate which was completed by Mr E's GP. I accept that the certificate does say that the GP was first consulted about the condition causing the claim on 14 September 2021. However, the form also asks:

*'If the patient was not travelling, could the travelling person(s) have foreseen or anticipated any possibility that the medical condition or related condition could have caused the cancellation of the trip?'*

This question applied to both the date the trip was booked and the date the policy was taken out. The GP answered no. And Mr and Mrs K say that their understanding was that following Mr E's September 2021 GP appointment, he'd been referred for tests for a stomach ulcer or hernia. There's nothing on the medical certificate which suggests *why* Mr E was referred or what tests he was referred for, but I find Mr and Mrs K's testimony on this point both plausible and persuasive. While Mr and Mrs K may have been aware that Mr E was being referred for tests, I've seen no evidence that either they or indeed, Mr E, had any knowledge that he was potentially suffering from a very serious condition. I also accept that Mr and Mrs K were unlikely to have thought they'd need to make a claim had Mr E been diagnosed with a hernia or an ulcer.

As I've set out above, the 'declaration' asks a policyholder if their relative is suffering from a medical condition which would be reasonably likely to lead to a claim. The GP stated that Mr and Mrs K couldn't have foreseen that Mr E's condition would lead to a claim and so I think Mr and Mrs K could reasonably answer 'no' to this question. So I don't think they'd have reasonably understood a referral for a test to look into a potential hernia or ulcer to be a medical condition which Great Lakes would want to know about. I'd add too that Mr and Mrs K say that one Mr E's cancer diagnoses was entirely separate to the condition under investigation and was discovered through other tests. This cancer required surgery. In my view then, this particular condition falls outside of the scope of the pre-existing condition exclusion clause and in and of itself is likely to have been an understandable reason for Mr and Mrs K to cancel the trip.

Overall then, I don't think Great Lakes acted fairly or reasonably when it declined to pay Mr and Mrs K's claim. So I find that it must now settle their claim, in line with the remaining terms and conditions of the policy and subject to the applicable excess. Great Lakes must add interest to the settlement at an annual rate of 8% simple from the date of claim until the date of settlement.

Great Lakes has an obligation to handle claims fairly. I've explained why I didn't think it did so in this case. I've also borne in mind that Mr and Mrs K were going through a very difficult time and a bereavement whilst dealing with the claim. And I don't doubt that Great Lakes' handling of the claim caused them unnecessary and avoidable distress and upset. So I agree with our investigator that Great Lakes must pay Mr and Mrs K £100 compensation to reflect the trouble and upset its decline of their claim caused them. I appreciate Mr and Mrs K say that Great Lakes' refusal to accept the investigator's view has caused them additional

stress. But both parties are entitled to request an ombudsman's decision as a part of our process and complaint handling in and of itself isn't regulated. This means I don't think I can reasonably make any additional award to reflect this.

### **My final decision**

For the reasons I've given above, my final decision is that I uphold this complaint.

I direct Great Lakes Insurance SE to:

- Settle Mr and Mrs K's claim, in line with the remaining terms and conditions of the policy and subject to the policy excess. It must add interest to this amount at an annual rate of 8% simple from the date of claim until the date of settlement.
- Pay Mr and Mrs K £100 compensation.

If Great Lakes considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr and Mrs K how much it has taken off. It should also give Mr and Mrs K a tax deduction certificate if they ask for one, so they can reclaim the tax from HM Revenue & Customs.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K and Mrs K to accept or reject my decision before 7 November 2022.

Lisa Barham  
**Ombudsman**