

The complaint

Mr and Mrs N are unhappy with the way in which AXA Insurance UK Plc has handled a claim they made on their travel insurance policy.

What happened

Mr and Mrs N booked a package holiday abroad in March 2020 for them and their family, departing the UK on 13 March 2020 for nine nights. They paid around £1,800 for the trip.

Before booking their trip, Mrs N called AXA, asking some questions.

Whilst away – on 15 March 2020 – the country Mr and Mrs N were visiting went into lockdown due to emergence of Covid-19 – meaning that facilities were closed. And they were only allowed to leave their room for basic refreshments.

The provider of the holiday arranged for Mr and Mrs N, and their family, to be repatriated back to the UK a few days later – and ended up refunding them £71.40.

Mr and Mrs N had the benefit of a travel insurance policy as part of their bank account and they made a claim on the policy for their out of pocket losses.

AXA assessed the claim under the travel disruption section of the policy. It declined the claim as that section of the policy excluded claims for package holidays. However, AXA did end up offering Mr and Mrs N £75 to acknowledge that the information provided to Mrs N, over the phone before she booked the holiday, could've been clearer. Unhappy, Mr and Mrs N complained to our service.

After they raised a complaint, AXA offered to pay them a further £600 which it said it ought to have offered them under the hospitalisation section of the policy. Although, they - nor their children - were hospitalised they offered to pay each of them £50 per day for the three nights they were effectively confined to their hotel room. They also offered a further £100 in compensation as AXA said it should've considered the claim under this section earlier than it did. Mr and Mrs N didn't accept this offer in settlement of their complaint.

Our investigator didn't uphold Mr and Mrs N's complaint. He said that AXA had fairly and reasonably declined the claim under the travel disruption section of the policy. He also felt that the offer of paying £600 under the hospitalisation section of the policy was fair and reasonable – and Mr and Mrs N had received a further sum of £175 in compensation from AXA, which he also thought was fair.

Mr and Mrs N didn't accept our investigator's view. So, their complaint was passed to me to consider everything afresh and decide. I issued my provisional decision on 15 September 2022, explaining why I was intending to uphold Mr and Mrs N's complaint. An extract of my provisional decision is set out below:

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Mr and Mrs N's claim

AXA has an obligation to consider claims promptly and fairly. And it mustn't unreasonably decline an insurance claim.

In this particular case, I'm satisfied that it's fair and reasonable for AXA to treat the claim as covered under the cancellation and curtailment section of the policy and I'm intending to uphold Mr and Mrs N's complaint.

I think their holiday was effectively curtailed from 15 March 2020 when the country they were visiting went into national lockdown. They were mainly confined to their room and was only allowed to leave to get basic refreshments. They weren't able to use any of the facilities – such as the pool which was closed.

The cancellation and curtailment section of the policy (starting on page 49 of the policy document) says:

“We will pay You up to £5,000 (inclusive of any valid claim payable under...Travel disruption cover) for any irrecoverable unused travel and accommodation costs (including excursions up to £250) and other pre-paid charges which You have paid or are contracted to pay together with any reasonable additional travel expenses incurred if:

- a. cancellation of the Trip is necessary and unavoidable or
- b. the Trip is Curtailed before completion
- c. You have to make an Early Return

as a result of any of the following events occurring:

- Compulsory quarantine...
- A government directive prohibiting all travel to, or recommending evacuation from, the country or area You were planning to visit or were staying in provided such a directive came into force after You have left the United Kingdom...”

Compulsory quarantine isn't defined under the policy. But given the circumstances Mr and Mrs N, and their children, found themselves in I think it's fair and reasonable to conclude that it amounted to compulsory quarantine.

Further, on 14 March 2020 – so after Mr and Mrs N departed the UK - the Foreign Commonwealth Office advised against all but essential travel to the country they were visiting.

I think it's fair to conclude that this amounts to a government directive prohibiting travel to the country they'd visited.

AXA has recently confirmed to our service that it accepts Mr and Mrs N's trip was effectively curtailed. It said that it didn't accept a claim under the cancellation and curtailment section of the policy because it didn't consider the losses claimed to be irrecoverable because the holiday was covered under the package holiday regulations.

Even though Mr and Mrs N booked a package holiday, they'd contacted the holiday provider and received a small refund of £71.40. They weren't advised of their rights to complain to a third-party organisation set up to help obtain refunds for package holidays. Further, from what I've seen, it doesn't look like AXA advised Mr and Mrs N of this potential course of action when responding to their complaint.

The deadline in which Mr and Mrs N had to complaint to the third-party organisation has now

passed. So, I don't think it would be fair and reasonable to conclude that losses being claimed are recoverable. And I think the claim should be re-considered under the cancellation and curtailment section of the policy.

The telephone call in March 2020

Mr and Mrs N are also unhappy with the information provided to Mrs N over the phone before booking the holiday. AXA accepts that it should've been made clearer that the policy didn't cover package holidays.

But although the travel disruption section of the policy excludes claims for package holidays, the cancellation and curtailment section of the policy doesn't contain a similar exclusion. This confusion has caused Mr and Mrs N's claim not being considered fairly. AXA has offered a total sum of £175 in compensation for not giving clearer information over the phone and for not considering the claim under the hospitalisation section of the policy. I think that amount fairly reflects the distress and inconvenience AXA has caused Mr and Mrs N in the way in which it has handled their claim – and assessed the claim against the policy terms.

Putting things right

Mr and Mrs N, and their children, had use of the flights they'd booked and paid for. They also had use of the first two days of their holiday.

I don't have a breakdown of the cost of the flights and the cost of the hotel from the holiday provider. It didn't set this out in communications with Mr and Mrs N. If AXA has any information about the way in which the holiday provider apportioned costs between flights and accommodation, it's free to provide this to me in response to my provisional decision.

But on the assumption that AXA is unable to provide information about that, I intend to find that it would be fair and reasonable for AXA to divide the total price paid for the holiday by the number of days of the holiday, which equates to approximately £180 per day.

AXA should then pay to Mr and Mrs N a sum equivalent to eight days – as I'm satisfied that the trip was effectively curtailed from 15 March 2020.

From that sum, it can deduct:

- £71.40, which is the amount paid by the travel provider to Mr and Mrs N;*
- £600 for the hospital benefit – if it's already paid this amount to Mr and Mrs N;*
- any excess due under the policy*

The total amount I refer to as "the payment due to Mr and Mrs N".

I also direct AXA to pay Mr and Mrs N:

- simple interest at the rate of 8% per year, on the payment due to Mr and Mrs N from the date on which the claim was declined to the date on which payment is made to them.*
- £175 compensation for distress and inconvenience (if this hasn't been paid already by AXA).*

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Both parties were given an opportunity to respond to my provisional decision. AXA didn't reply. Mr and Mrs N were happy with my provisional findings.

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.

Given that neither party has provided anything further for me to consider, I see no reason to depart from my provisional findings. So, I uphold Mr and Mrs N's complaint for the reasons set out in my provisional decision (above).

Putting things right

I think it's fair and reasonable for AXA to divide the total price paid for the holiday by the number of days of the holiday, which equates to approximately £180 per day.

AXA should then pay to Mr and Mrs N a sum equivalent to eight days – as I'm satisfied that the trip was effectively curtailed from 15 March 2020. From that sum, it can deduct:

- £71.40, which is the amount paid by the travel provider to Mr and Mrs N;
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- simple interest at the rate of 8% per year, on the payment due to Mr and Mrs N from the date on which the claim was declined to the date on which payment is made to them.
- £175 compensation for distress and inconvenience (if this hasn't been paid already by AXA).

My final decision

I uphold this complaint. I direct AXA Insurance UK Plc to put things right in the way I've set out above. Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs N and Mr N to accept or reject my decision before 28 October 2022.

David Curtis-Johnson
Ombudsman