

The complaint

Mr G complains that Inter Partner Assistance SA (IPA) declined his claim against his travel insurance policy. Reference to IPA includes its agents.

What happened

The details of this complaint are well known to both parties, so I won't repeat them again here in full. In summary, Mr G has an annual travel insurance policy with IPA. He was on a trip and due to begin his return home on 23 December 2021. Mr G's return flight was delayed by the airline due to a technical issue with the aircraft. The airline told Mr G that his rearranged flight would depart on 24 December 2021 and arranged overnight accommodation for him.

Mr G returned to the airport on 24 December 2021, but his flight didn't materialise. Mr G says that ground crew at the airport told him that he should go back to the accommodation the airline had provided for the night before and return to the airport the next day - 25 December 2021. Mr G says that he tried to contact the airline by phone but couldn't get through. He says that he didn't receive any information from the airline about a rearranged flight at that stage.

Mr G presumed that the airline had cancelled his rearranged return flight and, in the absence of any information about the airline rearranging the flight again, he booked two flights with other airlines in order to return home. The first flight departed late on 24 December 2021. He arrived home on 25 December 2021. Whilst Mr G was travelling on 25 December 2021, the original airline sent him an email saying that his rearranged return flight would leave on 25 December 2021. That was obviously too late for Mr G, as he was already returning home when he received the airline's e-mail.

Mr G made a claim against his policy in relation to the additional flight costs he incurred. IPA declined the claim. It said that whilst the policy provided a benefit where the delayed departure is at least 12 hours, it doesn't cover additional costs. And it relied on an exclusion in the policy which said that it wouldn't cover claims where the public transport operator – the airline in this case – had offered reasonable alternative arrangements.

Mr G didn't think that was fair. He said that when the rearranged flight on 24 December 2021 didn't materialise, he reasonably assumed that it was cancelled. As he didn't have any official confirmation from the airline about a second replacement flight, he arranged alternative flights home. Mr G says that the policy terms aren't clear. He wants IPA to reimburse the cost of his additional flights and to make the policy terms clearer.

One of our investigators looked at what had happened. She didn't think that IPA acted unfairly in declining Mr G's claim. The investigator said that IPA was entitled to rely on the exclusion in the policy to which it had referred. She said that the policy terms are clear, read in conjunction with the Insurance Product Information Document (IPID).

Mr G didn't agree with the investigator. He said that the airline didn't offer suitable alternative transport. Mr G said that he read the terms of the policy, not the IPID, when he decided to buy additional return flights.

The investigator considered what Mr G said but didn't change her view. Mr G asked that an ombudsman consider his complaint, so it was passed to me to decide.

My provisional decision

On 6 October 2022, I sent both parties my provisional decision in this case. I indicated that I intended to uphold the complaint. I said:

"the relevant terms and conditions"

The starting point is the terms and conditions of the policy, the relevant parts of which say as follows:

"Section G – Delayed departure

[...]

What is covered

*If **you** have arrived at the terminal and have checked in, or attempted to check in for **your** prebooked flight [...] from or to the United Kingdom, [...] and it is:*

- 1. Delayed for more than 12 hours beyond the intended departure time.*
- 2. Is cancelled before or after the scheduled time of departure as a result of any of the following events:*
[...]
 - c. Mechanical breakdown of or a technical fault occurring in the **public transport** on which **you** are booked to travel.*

We will pay you:

- *£20 for the first completed 12 hours delay and £20 for each full 12 hours delay after that, up to a maximum of £100 (which is meant to help **you** pay for telephone calls made and meals and refreshments purchased during the delay) provided **you** eventually travel.*
- *Up to £2,000 for any irrecoverable unused travel and accommodation costs and other pre-paid charges which **you** have paid or are contracted to pay, if:*
 - a. After a delay of at least 12 hours.*
 - b. Following cancellation, no suitable alternative **public transport** is provided within 12 hours of the scheduled time of departure.*

You choose to cancel *your trip* before departure from the **United Kingdom [...].**

Important note

You can only claim under subsection 1. or 2. above for the same event, not both. You can only claim under one of either Section G - Delayed departure, Section H - Missed departure or Section P - Travel disruption cover for the same event."

“What is not covered

[...]

- For subsection 2. only of What is covered: [...]

*g. Any travel and accommodation costs, charges and expenses where the **public transport** operator has offered reasonable alternative arrangements.”*

has the claim been declined unfairly?

The relevant rules and industry guidance say that IPA has a responsibility to handle claims promptly and fairly and it shouldn't reject a claim unreasonably.

I intend to uphold Mr G's complaint as I don't think that IPA acted fairly and reasonably in declining the claim. In order to put things right, IPA should deal with the claim under the remaining terms of the policy but that doesn't mean that it's obliged to reimburse Mr G's additional flight costs. I'll explain why:

- *Insurance policies aren't designed to cover every eventuality or situation. An insurer will decide what risks it's willing to cover and set these out in the terms and conditions of the policy document. The onus is on the consumer to show that the claim falls under one of the agreed areas of cover within the policy. If the event is covered in principle but is declined on the basis of an exclusion set out in the policy the onus shifts to the insurer to show how that exclusion applies.*
- *Mr G's original return flight was for 23 December 2021. The airline rearranged that flight for 24 December 2021, but that flight didn't materialise. The airline rearranged the flight again for 25 December 2021. So, Mr G's flight was delayed for more than 12 hours beyond the intended departure time, which is covered under the delayed departure provisions of the policy. In these circumstances, the policy provides that IPA will pay £20 for the first 12 hours delay and £20 for each full 12 hours after that, up to a maximum of £100, subject to the policy terms.*
- *In the particular circumstances here, I think it was reasonable for Mr G to assume that his rearranged flight on 24 December 2021 had been cancelled – that flight didn't materialise and there was no information immediately available from the airline about a replacement flight. Mr G says that airport ground staff told him to go back to the hotel the airline had arranged for the night before and return to the airport the next day. But there was nothing to indicate at that stage that the airline had arranged accommodation for an extra night or that it had rearranged the flight for a second time. Based on what I've seen, it wasn't until 25 December 2021 that the airline told Mr G that it had rearranged the flight for a second time.*
- *The policy provides up to £2,000 for irrecoverable, unused travel and accommodation costs and other pre-paid charges in certain circumstances if the trip is abandoned, that is, if the trip is cancelled before departure from the UK. I agree with Mr G that it's sufficient for him to look at the policy terms and conditions, rather than look at them in conjunction with the IPID. Mr G says that this part of the policy isn't clear but I'm afraid I don't agree. I don't think that IPA was at fault in declining to settle Mr G's claim for his additional flight costs for two reasons. Mr G didn't cancel his trip before departure from the UK. And Mr G's additional flight costs aren't unused travel costs or pre-paid charges, they are additional costs.*

- *IPA relies on an exclusion in the policy as it says that the airline offered reasonable alternative travel arrangements. But the exclusion on which IPA seeks to rely only applies to subsection 2 of “What is covered” (cancellation for certain specified reasons), not subsection 1 (delay for more than 12 hours beyond the intended departure time). So, I don’t think that IPA acted fairly in relying on that exclusion to decline Mr G’s claim.*
- *I’ve looked at the policy as a whole. “Section H – Missed departure” doesn’t assist Mr G, as it only covers failure to arrive at a departure point for certain specified reasons. “Section P – Travel disruption cover” only applies if indicated in the policy schedule, which isn’t the case here.*
- *For the reasons I’ve explained, I intend to uphold Mr G’s complaint and direct IPA to deal with Mr G’s claim under the delayed departure provisions, as indicated above, subject to the policy terms. I think it’s reasonable for IPA to calculate the period of Mr G’s delay up to the time of departure of the additional flight he bought to begin his return journey. As Mr G has been kept out of the use of that money, IPA should also pay interest.*

Putting things right

In order to put things right, IPA should deal with Mr G’s claim under the delayed departure provisions, as indicated above, subject to the policy terms and conditions. It should also pay Mr G interest on the amount of the settlement at the simple rate of 8% per year, from the date he made his claim to the date it makes the payment.”

Responses to my provisional decision

Mr G said that he had no further comment. IPA said that, in addition to the payment of £20 it sent to Mr G in May 2022, a further payment of £22.51 was being arranged.

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 Mr G nor IPA have made any substantive response to my provisional decision. I see no reason to depart from the conclusions I reached previously. For the reasons I’ve explained, I uphold Mr G’s complaint.

Putting things right

In order to put things right IPA should deal with Mr G’s claim under the delayed departure provisions, as indicated above, subject to the policy terms and conditions. It should also pay Mr G interest on the amount of the settlement at the simple rate of 8% per year, from the date he made his claim to the date it makes the payment.

My final decision

My final decision is that I uphold Mr G’s complaint. Inter Partner Assistance SA should now take the steps set out above if it has not already done so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 15 December 2022.

Louise Povey
Ombudsman