

The complaint

Mr and Mrs W complain that Mapfre Asistencia, Compania Internacional De Seguros y Reaseguros, S.A. has turned down a cancellation claim they made on a travel insurance policy.

What happened

In June 2019, Mr and Mrs W took out an annual travel insurance policy through a broker. The policy was underwritten by Mapfre. In August 2019, they booked a skiing holiday abroad in a country I'll call F. They were due to travel in December 2020.

On 11 March 2020, the World Health Organisation declared Covid-19 to be a pandemic. On 17 March 2020, the Foreign, Commonwealth & Development Office (FCDO) advised UK nationals against all but essential travel abroad. And on 23 March 2020, the UK government imposed 'lockdown'.

Mr and Mrs W's annual policy was due to renew in June 2020. In May 2020, they received a renewal notice from Mapfre which stated that their new policy would exclude Covid-19 related claims. However, the notice said that for trips booked before 13 March 2020, claims for Covid-19 would be considered under the old policy terms, providing there was no break in cover. The policy renewed in June 2020.

The balance of Mr and Mrs W's holiday was due in September 2020. Mrs W says she called Mapfre to check whether any cancellation claim due to Covid-19 disruption would be covered before paying the balance and that she was told it would. So she says that based on that assurance, she paid the balance of the trip.

As there were FCDO travel restrictions in place in December 2020, Mr and Mrs W's trip was rescheduled for December 2021.

However, in December 2021, F's government imposed travel restrictions on UK nationals, due to the Omicron coronavirus variant. So while the ski resort remained open, Mr and Mrs W were unable to travel as planned. Therefore, they made a claim on their travel insurance policy for their cancellation costs.

Mapfre turned down the claim. It said that the terms and conditions of the policy which applied at the time of the claim specifically excluded claims which were caused by Covid-19, unless a policyholder had cancelled their trip because they'd contracted the virus.

Mr and Mrs W were unhappy with Mapfre's decision. They felt Mapfre hadn't assessed their claim in line with the terms which had applied when they took out their policy. And they said they'd relied to their detriment on the assurance they'd been given by Mapfre that their claim would be covered. They asked us to look into their complaint.

Our investigator didn't think it'd been unreasonable for Mapfre to turn down Mr and Mrs W's claim. She was satisfied that as Mr and Mrs W's trip had been booked prior to 13 March 2020 and as they'd renewed their policy with Mapfre in June 2020, with no break in cover,

Mapfre ought to have assessed the claim using the 2019 policy terms and conditions. She obtained a copy of the applicable contract terms. But she didn't think the circumstances surrounding Mr and Mrs W's claim would've been covered under their old policy either.

The investigator accepted that Mrs W may have called Mapfre in September 2020. But Mapfre had no record of any call being made. In the absence of a call recording, the investigator considered what she thought was most likely to have happened. And she felt it was most likely that Mrs W would've been given a generic response which stated that in the event of a claim, the circumstances would be considered in line with the policy terms.

However, the investigator did think that Mapfre had made some mistakes in the way it handled Mr and Mrs W's claim and so she recommended that it should pay compensation of £150.

Mr and Mrs W disagreed. In summary, Mrs W said that she'd called the broker (which had been acting on Mapfre's behalf) and had been given very specific assurances about this scenario. Without such an assurance, she would have chosen to forfeit her relatively low deposit and decline to pay the holiday balance. She'd provided us with a handwritten entry in a book which she felt corroborated her testimony. She felt that Mapfre had failed to give her clear, fair and not misleading information about her cover and it hadn't told her that in order to be covered for Covid-19, she'd have needed to buy add-on travel disruption cover.

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, whilst I'm sorry to disappoint Mr and Mrs W, I think that the fair outcome for this complaint is for Mapfre to pay them £150 compensation and I'll explain why.

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 W's policy and the available evidence, to decide whether Mapfre treated them fairly.

It seems to me that there are two key issues for me to decide. First, was the claim covered by the policy terms? And second, did Mapfre give Mrs W misleading information which caused her to lose out? I'll address each in turn.

Was the claim covered by the policy terms?

Mapfre assessed the claim under the 2021 terms and conditions, which excluded cancellation claims caused by Covid-19 unless a policyholder, their close relative or travelling companion had contracted the virus. Mr and Mrs W say that their claim should have been assessed under the 2019 policy terms – which formed their original contract with Mapfre.

I've looked closely at the renewal notice Mr and Mrs W were sent in May 2020. I'm satisfied that that notice clearly indicated that if there was no break in cover and if a trip had been booked before 13 March 2020, Mapfre would assess claims for Covid-19 under the original policy terms and conditions. In this case, there's no dispute that Mr and Mrs W's trip was booked in August 2019 – around seven months before Covid-19 was designated as a pandemic.

However, the cancellation of the holiday took place in December 2021. By this point, Mr and Mrs W's policy had renewed for a second time and the 2020-21 policy year had ended. It isn't clear whether Mapfre had also extended the 2019 terms to the 2021 renewal for trips booked prior to 13 March 2020. I say that because the policy schedule refers to Mr and Mrs W's policy as 'Mapfre Multitrip.com UK 2019'. So it's possible that Mapfre still intended to assess claims for trips booked prior to 13 March 2020 in line with the 2019 policy terms.

If this was the case, then I agree that Mapfre should have assessed this claim in line with Mr and Mrs W's original policy terms and conditions. Mapfre has provided us with a copy of the 2019 contract terms and so I've looked closely at the cancellation cover the policy provided.

Page 14 of the 2019 policy terms sets out the applicable cancellation cover. This says that Mapfre will pay a policyholder's irrecoverable travel, accommodation and other pre-paid costs if their trip has to be cancelled for one of the following, specified reasons:

- *'The death, Bodily Injury, illness or Complications of Pregnancy and Childbirth:*
 - *You*
 - *Your Travelling Companion*
 - *any person with whom You have arranged to reside temporarily*
 - *Your Close Relative*
 - *Your Close Business Associate*
- *Compulsory quarantine, jury service attendance or being called as a witness at a Court of Law of You or Your Travelling Companion.*
- *You or Your Travelling Companion being made redundant, as long as You had been working at Your current place of employment for a minimum continuous period of two years, and that at the time when You purchased this insurance or at the time of booking any Trip, there was no reason to believe that You would be made redundant. This cover would not apply if You are self-employed or accept voluntary redundancy.*
- *You or any person who You are travelling or have arranged to travel with are a member of the Armed Forces, Territorial Army, Police, Fire, Nursing or Ambulance Services or employees of a Government Department and have Your/their authorised leave cancelled or are called up for operational reasons, provided that such cancellation or Curtailment could not reasonably have been expected at the time when You purchased this insurance or at the time of booking any Trip.*
- *In the event of Burglary at Your Home within 48 hours of Your departure or the police requesting You to return to Your Home due to serious damage to Your Home caused by fire, aircraft, explosion, storm, flood, subsidence, malicious persons or theft.'*

I think that Mapfre has clearly set out the listed, insured events which it had chosen to cover in the event a policyholder had to cancel their trip. I don't think that Mr and Mrs W's trip could fairly be deemed to have been cancelled for any of the above reasons. And cancellation of a trip due to the prohibitive regulations of a government simply isn't something Mapfre decided to insure.

The 2019 policy does provide cancellation in situations like those Mr and Mrs W found themselves in if a policyholder has paid an additional premium for extended cancellation cover. However, I can see from Mr and Mrs W's policy schedule that this wasn't something they'd chosen to purchase when they bought the policy. And Mrs W says that the broker didn't highlight this optional extra to them. If they feel there were any failings in the way the policy was sold to them though, or that they weren't given enough information about the add-

on cover available to them, they'd need to make a separate complaint about that issue to their broker. That's because Mapfre isn't responsible for the sale of the policy.

As I've mentioned above, it isn't clear to me whether at renewal in 2021, Mapfre had extended its agreement to assess claims for trips booked prior to 13 March 2020 in line with the 2019 terms. So I've also thought about whether the claim would've been covered under the terms of the 2021 policy if those contract terms had applied. And I don't think it would. The list of specific insured events under the cancellation and curtailment section of the policy are the same as those set out in the 2019 policy. And as I've mentioned above, the policy specifically excludes claims which are caused by Covid-19 unless a trip is cancelled because:

'You or a Close Relative or Travelling Companion are medically diagnosed with Coronavirus or personally instructed to isolate by an NHS service or medical professional.'

In this case, Mr and Mrs W didn't cancel their trip in 2021 because they'd contracted Covid-19 and neither were they directed to isolate by the NHS or a medical professional. So their claim simply wouldn't have been covered under the terms of the 2021 policy either. I'm mindful too that at the time of cancellation, while F's government had imposed restrictions on UK nationals travelling to it, there was no FCDO advice against travelling to F.

Overall, I don't think there are any reasonable grounds upon which I could direct Mapfre to accept Mr and Mrs W's claim.

Did Mapfre give Mr and Mrs W misleading information which caused them to lose out?

It's clear Mrs W feels strongly that she called Mapfre (or the broker, acting as the policy administrator) ahead of paying the holiday balance, to discuss whether Covid-19 related claims would be covered. She's maintained that she was assured that claims would be covered in this situation and that if the terms had been properly explained to her, she'd have decided against paying the holiday balance. So she feels that she and Mr W have been prejudiced by the information they say Mrs W was given.

I've looked carefully at the handwritten note Mrs W has provided. This says: *'phoned 11/9/20 Insurance company. Should cover chalet if cancelled.'* Mrs W has also provided us with details of the phone numbers she would've called from.

As the investigator explained, we asked Mapfre to search its phone records to locate this call and Mapfre says it also asked the broker to do the same thing. Unfortunately, Mapfre has no call recording and I've seen no call records from the broker either. In line with our rules, Mapfre is required to provide us with any evidence we require, so I think it's most likely that it doesn't have a copy of the relevant call recording.

In the absence of a call recording, I too have had to decide what I think is most likely to have happened based on the evidence and circumstances. I don't know exactly what questions Mrs W asked, what details she gave about her policy or the trip. And I can't know for certain what Mapfre said either. Whilst Mrs W's note says that cancellation claims 'should' be covered – this doesn't appear to be definitive. And as the investigator explained, in my experience, if a policyholder queries cover before a claim event has happened, or a claim has been made, insurers will generally tell a policyholder to submit their evidence and that the claim will be assessed in line with the policy terms and conditions. Generally, cover isn't confirmed until all of the claims evidence has been considered alongside the applicable contract terms. So it would be very unusual for Mapfre to have confirmed cover for an event which hadn't happened.

On that basis then, on the balance of probabilities, I'm not persuaded that it's more likely than not that Mrs W was told her claim would be covered. And this means I don't think I could fairly or reasonably hold Mapfre responsible for her decision to pay the holiday balance.

If, however, Mr and Mrs W are later able to obtain a copy of the call recording which supports their position, it's open to them to send it on to Mapfre to consider.

Notwithstanding the above, I agree that there were failings in the way Mapfre handled this claim. Mapfre may have wrongly assessed the claim using the 2020-21 policy terms and conditions and even if I'm wrong on this point, it doesn't appear to have responded to Mr and Mrs W's information requests in a timely way. I think this caused Mr and Mrs W unnecessary upset and inconvenience. So I too think that Mapfre must pay Mr and Mrs W £150 compensation to reflect the additional trouble and upset it caused them.

My final decision

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

I direct Mapfre Asistencia, Compania Internacional De Seguros y Reaseguros, S.A. to pay Mr and Mrs W £150 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W and Ms W to accept or reject my decision before 24 March 2023.

Lisa Barham
Ombudsman