

The complaint

Mr F and Mrs H complain about the way Great Lakes Insurance SE has settled a claim Mr F made on a travel insurance policy.

As Mr F made the claim and brought the complaint, I'll refer only to him throughout this decision.

What happened

The background to this complaint is well-known to both parties, so I'm setting out a summary of what I think are the key events.

Mr F held an annual travel insurance policy. He booked a trip abroad and was due to take a six-day, live aboard boat trip, on the Arctic Ocean. He flew abroad as planned in November 2021.

However, he became unwell shortly after landing, the day before he was due to board the boat. He developed flu-like symptoms. He said he contacted Great Lakes' assistance team and was told to see a doctor. He took a Covid-19 test, which provided a negative result. Mr F spoke to a virtual GP service, who diagnosed a non-Covid viral disease, which could be influenza. The GP also provided Mr F with a fit note stating he was unable to work for an eight-day period.

Mr F says that given the nature of the trip, which included ocean swimming, the GP advised him against taking the boat trip and suggested that he return home. Mr F says he spoke with the boat trip operator and was told the trip was non-refundable. He also says that the boat trip operator told him that his illness could jeopardise the health of other passengers. On that basis, Mr F decided against taking the trip and returned to the UK. He made a claim on his travel insurance policy for the costs of the boat trip.

Great Lakes partly settled Mr F's claim. It covered the costs of Mr F's return flight to the UK. But it didn't agree to settle the costs of the boat trip. That's because it said Mr F hadn't provided a medical certificate which showed it'd been necessary for Mr F to cancel or cut short his trip

Mr F was unhappy with Great Lakes' decision and he asked us to look into his complaint.

Our investigator felt that Great Lakes had treated Mr F fairly and so she didn't think Mr F's complaint should be upheld.

I issued a provisional decision on 28 February 2023. In my provisional decision, I explained the reasons why I didn't think Great Lakes had treated Mr F fairly. I said:

'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 F's policy and the available evidence, to decide whether Great Lakes has treated him fairly.'

I've first considered the policy terms and conditions, as these form the basis of the contract between Mr F and Great Lakes. Mr F cut short his trip and therefore, Great Lakes assessed the claim in line with the 'Cutting Short Your Trip' section of the policy. This section of the contract provides cover if a policyholder has to curtail their trip for one of a defined, specific list of reasons. One of those 'insured events' is:

'a) an unforeseen illness, injury or death of you, a close relative, travelling companion or any person with whom you have arranged to stay during the trip.'

This section of the policy also includes 'special conditions' which apply to claims. These include the following:

- 'You must obtain a medical certificate specifying the unforeseen illness or injury from the doctor in attendance to confirm the necessity to cancel your trip or return home;*
- If you have to cut short your trip you must contact us first to obtain our prior approval and allow us to make all the necessary travel arrangements to bring you home.'*

The insurance contract also sets out a list of 'General Exclusions' which apply to all claims. One of those exclusions says that no cover will be provided for any claims:

'Arising from you acting against the advice of a doctor.'

Great Lakes considered that Mr F hadn't provided enough medical evidence to show that it was necessary for him to cut short his trip. So I've considered whether this was a fair conclusion for Great Lakes to draw.

There's no dispute that Mr F didn't obtain a medical certificate from a GP which specifically stated that he wasn't fit to undertake the boat trip. Neither is it clear whether he contacted the assistance company to gain its approval to curtail his trip and return to the UK. So on a strict interpretation of the policy terms, Mr F's claim may not be covered. However, I can depart from a strict interpretation of the contract terms, if I feel that their application produces an unfair result. And that's the case here, as I'll go on to explore.

Mr F says that he called Great Lakes' assistance company when he became unwell and was told to speak to a GP. He says that he wasn't able to do so – and given he exhibited symptoms which might indicate a Covid-19 infection – I don't find this implausible. So it seems to me that an appointment with a virtual GP was potentially Mr F's best option. And Mr F has evidenced that that appointment took place on 6 November 2021. The notes of that appointment show that Mr F was diagnosed with a viral disease, which could possibly be influenza.

The virtual GP didn't provide Mr F with Great Lakes' standard medical certificate and neither did they say Mr F needed to cut short his trip. Instead, the fit note stated that Mr F wasn't fit to work for an eight-day period. Mr F says, though, that the GP advised him against taking the trip and told him to return to the UK. I find Mr F's testimony on this point persuasive. It seems to me that if the GP concluded Mr F wasn't fit enough to work, then it seems they'd have also felt that he was unlikely to be fit enough to undertake a trip, during winter, on the Arctic Ocean, which included ocean swimming and snorkelling. On this basis then, it appears to me that Mr F may well have been travelling against medical advice had he taken the trip, which means he wouldn't have been entitled to any cover under the policy. And as I've set out above, given the nature of his symptoms and prevailing concerns about Covid-19, it may have been difficult for Mr F to attend an in-person appointment and obtain a specific medical certificate.

As such, it seems to me that Mr F has provided reasonable medical evidence which demonstrates he was unwell with an unforeseen illness, in line with the terms of the policy and which shows he wasn't fit to take the boat trip.

I've next thought about the purpose of Mr F's trip – which was swimming in the Arctic Ocean with a view to swimming and snorkelling with marine life. Given the nature of Mr F's diagnosed illness, it seems that it wouldn't have been possible for Mr F to participate in sailing, swimming or snorkelling activities – especially taking into account the time of year and the location. Accordingly, I currently think the overall purpose of Mr F's trip was frustrated, as he was prevented from taking part in the core activities the trip provided. And at that point, I think it's fair to say that Mr F's trip was effectively cut short by his diagnosed illness.

I'm mindful that I don't currently have any evidence to show whether Mr F called the assistance team once he spoke with the GP, or before he arranged his return flight. So I asked Great Lakes if it could provide me with comments from its Chief Medical Officer to show what they likely would have advised Mr F to do had he told it about his diagnosis. Despite chases though, this evidence hasn't been provided. So I don't find that Great Lakes has currently demonstrated that it's been prejudiced by any potential failure on Mr F's part to call ahead of curtailing his trip.

Overall, on the evidence before me, I currently find that Mr F has sufficiently demonstrated that he was diagnosed with an unforeseen illness. And I'm currently satisfied that this illness prevented Mr F from undertaking the core purpose of his trip. So I currently find that the purpose of Mr F's trip was frustrated and that the trip was effectively curtailed at the point he became unwell. In the absence of any evidence to show that Great Lakes' position was prejudiced by Mr F's potential failure to gain its approval before returning to the UK, I'm presently persuaded that it wasn't fair or reasonable for Great Lakes to decline Mr F's claim for the boat trip costs. And so I'm therefore intending to direct Great Lakes to reassess Mr F's claim for the boat trip, in line with the remaining terms and conditions of the policy.'

I asked both parties to provide me with any further evidence or comments they wanted me to consider.

Both Mr F and Great Lakes said that they accepted my provisional decision.

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, as both parties have accepted my provisional findings, I see no reason to change them.

So my final decision is the same as my provisional decision and for the same reasons.

My final decision

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

I direct Great Lakes Insurance SE to reconsider Mr F's claim, in line with the remaining terms and conditions of the policy.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F and Mrs H to

accept or reject my decision before 5 April 2023.

Lisa Barham
Ombudsman