

The complaint

Mr and Mrs B are unhappy with Aviva Insurance Limited's handling of their claim.

What happened

Mr and Mrs B were on holiday when Mrs B fell and broke both her wrists and her left knee. She was taken to the local hospital and treated for her injuries. Mr B called Aviva to tell it what had happened. Aviva initiated the claims procedure and asked whether they wanted to return to the UK, but Mr B said it's likely they'd want to continue their journey as they'd planned to travel across America. And so, Mr and Mrs B wanted to continue their journey, however, they asked that Aviva arrange for Mrs B to have a full cast put on both arms when they arrived at Los Angeles.

Mr and Mrs B said Aviva didn't offer enough support or any meaningful, proactive contact throughout the handling of their claim. Mr B said the situation was so stressful that he had two panic attacks because he was the sole carer for his wife during that time. Mr and Mrs B said Aviva delayed getting the medical reports, which in turn, delayed their repatriation to the UK. Mr and Mrs B said they ended up having to arrange their own flights home, as well as arranging surgery for Mrs B's injuries privately upon their return. They would like Aviva to cover her treatment costs and pay £10,000 compensation for the overall upset caused.

Aviva acknowledged it could have offered better service than it did. It said there were times when communication could have been better and it also acknowledged the stress its actions caused Mr B. It offered £500 compensation and an apology. It cited a miscommunication as the reason for ceasing to discuss the case with Mr B personally whilst they were away.

Our investigator didn't think Aviva's offer went far enough to resolve the issue. He said Aviva should increase its offer of compensation to £800 as he felt this fairly acknowledged the substantial distress, upset and worry Aviva's actions caused.

Aviva accepted our investigator's recommendation, but Mr and Mrs B disagreed. In summary, they said the distress was so severe that they feel £10,000 compensation is more reflective of the distress and inconvenience Aviva's actions caused. And so, it's for me to make a final 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, I've decided to uphold it and for the same reasons given by our investigator. I'm also satisfied with the compensation awarded by our investigator because I think it's fair in the circumstances and so I won't be increasing it. I'll explain why.

There's a wealth of information that's been provided by both parties, all of which I've reviewed prior to making my final decision. I've not listed everything that's happened here, because both parties are aware of the background to this complaint. Instead, I've focussed

solely on the arguments that I believe are central to the outcome I should also say the test here is whether Aviva has handled Mr and Mrs B's claim fairly. Under the insurance conduct of business sourcebook (ICOBS) Aviva has a responsibility to handle claims fairly and promptly and must not reject or avoid claims unfairly.

I was sorry to learn of Mrs B's injuries following her fall whilst on holiday. I wanted to acknowledge the upset this undoubtedly caused, given this was a special holiday that I expect took a lot of planning. Mr and Mrs B were in a remote location on the other side of the world which, compounded by Mrs B's injuries, made it even more difficult to seek appropriate treatment. Mr and Mrs B initially wanted to continue their trip, despite her injuries, however, it became clear that this wasn't possible. Mrs B was unable to walk owing to a broken kneecap or use her arms because of her broken wrists. Mrs B was also unable to administer her own self care following the accident.

To make things clearer, I've given a brief timeline of events.

- 9 February 2022 – Mrs B fell outside the shopping mall. She was taken to hospital and casts put on. It was advised she seek treatment at another hospital via an orthopaedic surgeon. Mr and Mrs B left hospital with a fit to fly certificate and an x-ray disc showing her injuries. But they didn't have a medical report. The hospital said it would take a week to provide one. Mr and Mrs B were due to fly to LA on 15 February.
- 10 February – discussion with Aviva about the possibility to returning home earlier than originally planned. Also explored the possibility of having treatment in LA – which Aviva said it could potentially support. It also said it'd need a medical report before it could decide how best to move forward.
- 13 February – Aviva spoke with its medical team and decided Mr and Mrs B should return to the UK, given the seriousness of her injuries. This came as a surprise to Mr and Mrs B because Aviva didn't share this. Mr B initially didn't want to leave, however, conceded it was for the best given Aviva wouldn't support them with cover should they have continued their trip. Mr B explained he was struggling to cope with looking after Mrs B and requested a change of hotel. Aviva didn't initially support this as there was a lift facility at their current hotel. However, it changed its position following subsequent discussions with Mr B and agreed to arrange new accommodation and the transfers. Aviva also agreed to source carers for Mrs B.
- 14 February – Mr B had a panic attack. A new hotel was arranged and so too were the transfers. There were issues with this because the taxi didn't arrive until after the agreed time. This was owing to an earlier transfer that took more time than initially thought. Aviva didn't tell Mr and Mrs B about the delay, which caused further upset and confusion about what was happening.
- 15 February – an appointment was arranged with the hospital so Mr and Mrs B could obtain a medical report. There were issues with the transport arranged by Aviva. The taxi couldn't collect them from the hotel entrance, and it was very late, which caused them to miss the scheduled appointment time. Aviva was also unable to source a nurse to administer care for Mrs B. Mr and Mrs B asked Aviva for a detailed itinerary of how it planned to get them home.
- 16 February – Aviva completed the itinerary and received medical clearance from the airline that it could repatriate Mr and Mrs B on 20 February with the appropriate nurse escorts. Another appointment was made with an orthopaedic surgeon. He recommended Mrs B have bilateral distal surgery, but Aviva didn't agree, stating it'd

need a medical report to better understand the reason this treatment couldn't be done in the UK. Mr and Mrs B were still without a nurse escort and Mr B explained if this wasn't arranged immediately, then they'd arrange their own return to the UK. No nursing care was put in place and so Mr B said he'd arrange their own repatriation.

- 17 February – Aviva said it'd need Mrs B to give consent for medical records to be released so it could decide whether cover for the proposed treatment was available. However, it learned Mr and Mrs B had not extended their stay at the hotel and had in fact arranged their own return to the UK.

When Mrs B injured herself on 9 February she was given back slab casts to allow for the swelling of her injuries. The hospital said these casts were also suitable for flight. They were told by the treating surgeon that Mrs B was able to continue the trip, provided she received surgery within three weeks of sustaining her injuries. She was also given a fit to fly certificate and an x-ray disc to give to the intended treating surgeon. It's important to note that Mr and Mrs B weren't intending to return to the UK until 15 March 2022 and although they were planning to travel around as part of their trip, they hadn't booked any other hotels, other than the one they were currently in. Mr and Mrs B wanted to receive the treatment in LA, as that was their next intended destination.

On 11 February, two days after the accident, Mr B told Aviva that Mrs B was immobile and unable to do anything on her own. He explained that she couldn't look after herself and that she was totally dependant on him for everything, including helping her go to the toilet. I think it's fair to say that although Mr B wanted to continue with the trip, it ought to have become reasonably clear that wasn't going to happen. I think Aviva ought to have realised that too simply based on the medical evidence it had at the time and Mr B's testimony about Mrs B's capabilities.

Aviva said it'd review the situation and see whether it could support treatment in LA. But instead, two days later 13 February, it told Mr and Mrs B it was medically viable to curtail the trip. Aviva had discussed the case with its medical team and reached that decision. Mr and Mrs B didn't know Aviva would be discussing their case with the medical team and so this came as a surprise. I think Aviva could have been more open about the actions it was taking at the time so that Mr and Mrs B could have been better prepared.

I think Aviva could have given a decision on the necessity to curtail the trip sooner than it did. Although I accept Mr and Mrs B didn't have a medical report when they left the hospital, they still had a fit to fly certificate, as well as an x-ray disc detailing her injuries. I'm satisfied Aviva could have requested this information and considered it, alongside the fit to fly certificate with its in-house medical team. Doing that could have potentially solved the delays associated with the hospital issuing the medical report.

It was decided on 13 February, some four days after the accident, it was medically necessary to curtail their trip because of the significance of Mrs B's injuries. I think this decision should have happened sooner than it did.

I also didn't think it appropriate that Aviva expect Mr and Mrs B to travel back to the hospital to obtain the medical report. I'd have expected Aviva to try every way it could to obtain it, rather than asking Mr and Mrs B to. I think given the significance of Mrs B's injuries it could have thought more about the impact this undoubtedly had on them both. It's important to remember both Mr and Mrs B are elderly and were in a foreign country and now with severe mobility issues. This understandably had an impact on their mental wellbeing, as demonstrated by Mr B's panic attacks, which subsequently occurred following what he perceived to be a lack of care and responsibility offered by Aviva. I think Aviva should have made every effort to source medical reports itself so it could assess their situation and

whether it was appropriate for Mrs B to continue the trip and whether she was fit to fly.

I note when Aviva realised the trip would need to be curtailed, the relationship between it and Mr B had severely suffered. Aviva thought Mr B had told it not to contact him again, and whilst he was frustrated during that conversation, I think it should have perhaps politely ended the call and followed up with an email the next day. Aviva, instead, contacted a third-party linked to Mr and Mrs B to discuss the issue. I can see that it did this with good intentions and I'm satisfied the overall aim here was to figure out how Aviva would ultimately get Mr and Mrs B home, given contact had broken down.

Unfortunately, it wasn't handled in the right way and this resulted in further upset for Mr and Mrs B. I'm aware of the conversations that took place and what was discussed between Aviva and the third-party. I'm satisfied the metaphorical line of professionalism was crossed during some of those conversations.

I note it wasn't until 17 February that Aviva requested consent from Mrs B to release her medical records so it could attempt to validate the proposed treatment of bilateral distal surgery. I thought this delay was unnecessary and that Aviva should have obtained this much sooner than it did. I accept it may not have had a direct impact on Mrs B because she returned to the UK shortly after, however, I'm satisfied it contributed to the overall lack of trust she had in Aviva.

Overall, I consider the £800 compensation for the overall distress and inconvenience caused because it is reasonable. I still consider the errors to have had a significant impact on Mr and Mrs B, but I'm not persuaded that £10,000 is a fair award in the circumstances. I'm satisfied £800 is fair and reasonable and I should also say it's in line with our compensatory guidelines. I don't consider this to have had an on-going, or lasting impact on Mr and Mrs B's health, nor have I seen any medical evidence to suggest that Mrs B has experienced a severe disruption to her daily life because of Aviva. Therefore, I don't think it's fair to increase the award in these circumstances as I'm satisfied £800 is fair and reasonable. I note Mr and Mrs B's comments about their trip being ruined, but it's important to remember the accident is the primary cause of that, which wasn't Aviva's fault.

Aviva still managed to get things right in places. It agreed to move Mr and Mrs B to another hotel, it attempted to arrange for nurses to help care for Mrs B – albeit this proved a challenge given the remoteness of their location at the time and availability of appropriate nurses. When Aviva realised the trip would need to be curtailed, it began looking into suitable return flights and medical escorts to accompany Mrs B on those flights. I accept this was a difficult task and I don't think it fair to hold Aviva responsible for the challenges associated with this. Mrs B also needed to travel on a flight that had a bed facility, and not simply a reclining chair, owing to the knee injury. And so, that flight wasn't available until 21 February. I'm satisfied this was the earliest flight it could arrange that could cater to Mrs B's needs.

I note Mr and Mrs B ended up arranging their own flights at an earlier date, but this was without a medical escort. I think, given that Mr B would have needed to care for Mrs B whilst she was on the return flight, Aviva should cover the cost for both Mr and Mrs B. I've seen evidence that this has already happened and so there's no further award for me to make here. I should also highlight that Aviva had made arrangements to extend Mr and Mrs B's stay at their new hotel to carry them through to the intended date of departure.

Further, I'm aware of the costs already paid by Aviva – they are £29,093.67. Having carefully considered the breakdown of this figure, I'm satisfied Aviva has covered all eligible costs in line with the policy terms. I should also say that I wouldn't have expected Aviva to cover gratuity costs incurred by Mr and Mrs B, despite it being culturally customary.

I'm satisfied with Aviva's decision not to pay for Mrs B's treatment when she returned to the UK as the policy doesn't cover treatment costs in their home country. This is a travel insurance policy with medical expenses attached to it, intended to cover treatment abroad.

I'm aware Mrs B received treatment at a private hospital when she returned to the UK, but I'm not satisfied this was medically necessary. I say that because I've seen no persuasive medical evidence to explain why she couldn't have received treatment using the NHS through A&E admission. Mrs B was told by the treating doctor abroad that she had three weeks to complete the surgery and so she could have been treated by the NHS as I've explained. I understand the decision made by Mr and Mrs B to receive private medical care, but Aviva doesn't have to pay for that.

My final decision

My final decision is that Aviva Insurance Limited must pay Mr and Mrs B £800 compensation for the overall distress and inconvenience caused.

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

Scott Slade
Ombudsman