

## The complaint

Mr F and Ms F complain that AWP P&C SA has turned down a claim they made on a travel insurance policy.

## What happened

Mr F and Ms F have travel insurance as a benefit of a packaged bank account.

In March 2022, Mr F and Ms F booked a multi-centre holiday abroad. They were due to travel between 30 May and 10 June 2022. Their holiday included a planned five day stay in a country I'll call S.

However, shortly before Mr F and Ms F were due to travel, the Foreign, Commonwealth & Development Office (FCDO) advised against all but essential travel to S. They say they contacted AWP to check whether their policy would cover them if they travelled to S and were told that it wouldn't. So Mr F and Ms F rearranged their travel plans and missed their planned stop in S, with a new planned return to the UK on 6 June 2022. They incurred a flight amendment fee of £898. They made a claim on their travel insurance policy for the costs they'd incurred.

AWP assessed the claim under the cancellation or curtailment section of the policy. It turned down the claim, as it said that cover for a government directive prohibiting travel to a policyholder's destination only applied if the directive came into force after a policyholder had left the UK. In this case, the FCDO advice had been issued around 10 days before Mr F and Ms F had been due to depart on their trip.

Mr F and Ms F were unhappy with AWP's decision and they asked us to look into their complaint.

Our investigator thought this complaint should be upheld. She felt that AWP had misinterpreted the policy term it had relied on, and that the section it had relied upon only applied to curtailment claims. So she recommended that AWP should pay Mr F and Ms F's claim, together with interest.

AWP disagreed. It maintained that the cover only applied if a government directive came into force after a policyholder had already started their trip. It said the government directive had to prevent all travel, not just advice against all but essential travel. And the expenses Mr F and Ms F had claimed for were neither for cancellation nor curtailment – they were for a flight amendment.

I issued a provisional decision on 27 February 2023. In my provisional decision, I explained the reasons why I didn't think it had been fair for AWP to turn down this claim. 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 and Ms F's policy and the circumstances of their claim, to decide whether AWP treated them fairly.'*

*I've first considered the terms and conditions of Mr F and Ms F's policy, as these form the basis of their contract with AWP. It assessed Mr F and Ms F's claim under the cancellation or curtailment section of the policy and so I've carefully considered the cover this part of the policy provides.*

*The policy says:*

*'What is covered*

*We will pay you up to £5,000...for any irrecoverable unused travel and accommodation costs (including excursions and other pre-paid charges) which you have paid or are contracted to pay together with any reasonable additional travel expenses, due to any of the following necessary and unavoidable events:*

- Cancellation of the trip; or*
- You fully curtail (cut short) your trip before completion or partially curtail (interrupt) your trip for more than 48 hours...*

*As a result of the following events occurring:..*

- 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.'*

*In this case, AWP turned down Mr F and Ms F's claim because it said that as the FCDO advice had changed prior to their departure from the UK, it wasn't covered by the policy terms. It's also now said that the FCDO didn't advise against all travel to S, in line with the policy terms, and that Mr F and Ms F didn't cancel their trip in any event. So I've gone on to decide whether I think AWP's conclusions are fair.*

*I've initially considered the applicable policy term I've referred to above. The way that cancellation or curtailment cover is laid out suggests that all eight insured events listed are covered in the event of cancellation or curtailment. If I were to accept that cover only applied if, for example, FCDO advice changed after a policyholder had already left the UK, then it seems to me that this particular term can only apply to curtailment claims. That's because, necessarily, if a policyholder has already left the UK, then they will already be on holiday. It doesn't seem to me that a policyholder could be considered to have cancelled their trip after they've already travelled abroad. If such FCDO advice was issued once a policyholder has already left the UK, it seems to me that their choices would be limited to either cutting short their trip or staying abroad. If AWP intended this cover to only apply to curtailment claims, it was free to set this out specifically and clearly in the contract terms. But it didn't do so – this cover applies to cancellation or curtailment claims.*

*So I agree with our investigator's interpretation of this term. The first part of the clause states cover is provided in the event of 'a government directive prohibiting all travel to...the country*

*or area you were planning to visit' – which suggests a future travel event. So it appears to me that the first part of the clause applies to cancellation claims. And I think the remainder of the clause following 'or' relates to curtailment claims – given it specifically refers to the country or area a policyholder is staying in at the time of the advice. And I think it's the second part of the clause only which requires a policyholder to have departed the UK before curtailment cover will apply. Even if I'm wrong on this point though, I don't find that this clause is drafted in a clear or unambiguous way, for the reasons I've given above. So I consider it would be fair for AWP to interpret this term in Mr F and Ms F's favour.*

*It's common ground that Mr F and Ms F's whole trip wasn't cancelled. Neither did the FCDO advise against all travel, in line with the policy terms. So on a strict interpretation of the policy, Mr F and Ms F's claim may not be covered. But I can depart from a strict application of the contract terms if I conclude they produce an unfair result. And that's the case here, for reasons I'll go on to explore.*

*The FCDO advised against all but essential travel to S shortly before Mr F and Ms F were due to travel. Mr F and Ms F say they called AWP and were told that if they travelled to S, they wouldn't have any policy cover. This accords with the general exclusion in the policy terms for travel against FCDO advice or recommendations. The general exclusion isn't limited to travel against FCDO advice against 'all travel' only. I don't think a holiday could reasonably be considered to be essential travel and I think such trips to S were exactly what the FCDO was advising people against. The FCDO itself says that it advises against travel when the risk to British Nationals is unacceptably high. So I think regardless of whether the advice was for 'all travel' or 'non-essential' travel, the impact of the advice on both Mr F and Ms F and AWP and the level of risk posed by travel to S was the same. As such, it seems unfair for AWP to distinguish between the two types of FCDO advice when assessing this claim.*

*I'm mindful that Mr F and Ms F's claim was for an amendment fee, rather than trip cancellation. However, it's clear, from their original booking, that they'd originally intended to stay in S for a five day period. Following the FCDO advice, they effectively cancelled this part of their trip and returned to the UK a few days earlier than planned, via another route. It seems to me too that had Mr F and Ms F decided to cancel their whole trip as a result of the advice, they may well have been entitled to recover their full cancellation costs under the policy terms. Instead though, they chose to mitigate their losses and rearrange the trip – cancelling one stage of their multi-centre journey. I think it would produce an unfair and unreasonable result were Mr F and Ms F to lose out simply because they decided against cancelling their trip as a whole.*

*On that basis, I currently think that the fair and reasonable outcome to this complaint is for AWP to settle Mr F and Ms F's claim, in line with the remaining terms and conditions of the policy. I also think it should add interest to the settlement at an annual rate of 8% simple, from the date of claim until the date of settlement.'*

I asked both parties to send me any additional evidence or comments they wanted me to consider.

Neither AWP nor Mr F and Ms F had anything more to add.

### **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 neither party has provided any further evidence or comments for me to consider, I see no reason to change my provisional decision.

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 AWP P&C SA to settle this claim, in line with the remaining terms and conditions of the policy. AWP must add interest to the settlement at an annual rate of 8% simple, from the date of claim until the date of settlement.

If AWP considers that it's required by HM Revenue & Customs to take off income tax from that interest it should tell Mr F and Ms F how much it has taken off. It should also give Mr F and Ms F a certificate showing this if they ask for one, so they can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms F and Mr F to accept or reject my decision before 25 April 2023.

Lisa Barham  
**Ombudsman**