

The complaint

Mr and Mrs C complain that Red Sands Insurance Company (Europe) Limited hasn't paid for private treatment under their travel insurance policy.

What happened

Mr and Mrs C had a single trip travel insurance policy which covered them between 1 February and 31 March 2022. The insurer was Red Sands.

Mr and Mrs C were on a holiday abroad. During the trip, Mr C had an accident and suffered an injury. Mr C had surgery, and he was treated at a private hospital. Shortly afterwards, he had to go back to hospital for further treatment, and he was admitted to the same private hospital. Mr and Mrs C want Red Sands to pay for the private treatment.

Red Sands said Mr and Mrs C's policy doesn't cover private treatment where public facilities were available. So, Red Sands declined the claim. Unhappy with this response, Mr and Mrs C brought the complaint to our service.

One of our investigators looked into Mr and Mrs C's complaint. Having done so, she didn't think Red Sands had done anything wrong when it declined the claim. This was because she thought Mr and Mrs C hadn't given Red Sands the opportunity to assess if Mr C could've been transferred to and treated at a public hospital. She thought they wanted Mr C to be treated at the private hospital instead. So, she didn't think Red Sands needed to pay for Mr C's private treatment.

Mr and Mrs C didn't agree with our investigator's findings. As no agreement was reached, the complaint was passed to me to decide. I issued my provisional decision in March 2023. Here's what I said:

"Industry rules set out by the regulator (the Financial Conduct Authority) say insurers must handle claims fairly and shouldn't unreasonably reject a claim. I've taken these rules, and other industry guidance, into account when deciding what I think is fair and reasonable in the circumstances of Mr and Mrs C's complaint."

Mr C's initial treatment

Late on 31 March 2022, Mr C suffered an injury and he was taken to a hospital by an ambulance. Mr and Mrs C's son called Red Sands the following morning to let it know Mr C was in hospital. Red Sands explained that private treatment was only covered if public facilities weren't available, and it needed to establish if it was medically safe to transfer Mr C. Mrs C's son explained that he'd phoned the public hospital, which was over an hour away, and he'd been told they weren't able to carry out the surgery Mr C needed for over a month.

Red Sands called the private hospital to establish if Mr C could be moved to a public facility but it wasn't able to speak to the treating doctor. Red Sands noted that the surgery Mr C needed should ideally be done within 24h and moving him to a public facility was likely to lead to delays in surgery taking place, which increased risks of complications. Red Sands noted that the nearest public facility was over an hour away. So, the medical preference was for Mr C to remain in the private facility and have the surgery and the post operative rehabilitation there.

Red Sands contacted its local agent to ask if there was a public facility that would accept Mr C and be able to perform the surgery in the next 24 to 48h. The agent responded to say the public hospitals didn't deliver medical reports, so the agent couldn't follow up, and it wouldn't know if there were any nearby dates for the surgery Mr C needed. The agent recommended another private hospital nearby that would allow costs to be contained.

Red Sands responded to the agent to re-iterate its question about a public hospital and said it didn't need to move Mr C to another private hospital. The agent responded to re-iterate the points in response to the original question and explained why it recommended another private hospital. Following this, Red Sands' notes show a medical report on 1 April 2022 around 5pm which recommended surgery to be done locally as soon as possible.

The local agent told Red Sands on 1 April 2022 around 11pm that public hospital would accept Mr C if he had insurance coverage. The hospital said it would need to evaluate Mr C to determine when the surgery could be done.

Red Sands added a task to contact the private hospital Mr C was at and ask if he could be moved to a public hospital or if this would delay surgery. Red Sands noted that if there would be a delay, not to proceed with the transfer but to provide an update on this. But when Red Sands spoke with the hospital on 2 April 2022 around 11am to follow up on the above note, it was notified that Mr C's family wanted him to go ahead with the surgery at the private hospital he was at. The surgery was due to go ahead shortly.

After Mr C had gone ahead with the surgery, Red Sands confirmed to Mr and Mrs C's son on 2 April 2022 around 5pm that there was no cover for the private treatment costs Mr C had incurred. This was because Mr C hadn't originally gone to a public facility, so Red Sands hadn't been able to confirm if Mr C could've been treated there instead.

The terms and conditions of Mr and Mrs C's policy say the following:

"PLEASE NOTE: This is a travel insurance policy and not private medical insurance. This means there is no cover for any medical expenses incurred in private medical facilities if we have confirmed that medically capable public facilities are available."

The medical section of the policy also says that there was no cover for "cost of private treatment unless our 24/7 assistance team has agreed and adequate public facilities are not available".

It's clear that Mr C and his family wanted to go ahead with the surgery at the private hospital he was at. But based on what I've seen so far, I'm not persuaded that Red Sands would've done (or reasonably should've done) anything different, even if had assessed the situation fully before Mr C went ahead with the surgery. I'll explain why.

Firstly, Red Sands' medical team noted that Mr C required surgery within 24 to 48h of the incident. This would've meant he needed surgery before the end of 2 April 2022 at the latest.

It's not uncommon for an ambulance to take a patient to a private hospital if it's the nearest one, as was the case here. But when this happens, I think it was Red Sands' responsibility to arrange to move Mr C to another facility, if it wasn't happy to pay for the costs at the facility he was at. And it should've done so promptly, considering the urgency of the surgery needed.

As I've outlined above, Red Sands' medical team noted that the medical preference was for Mr C to remain in the current private facility, and to have surgery and the post operative rehabilitation performed there. And Red Sands' local agent didn't recommend moving Mr C to a public facility, as it wasn't able to get any information or reports. Instead, it recommended another private hospital nearby. Following this, Red Sands' notes show a medical report with a recommendation for Mr C to have the surgery locally as soon as possible.

With the above in mind, I think it's unlikely Red Sands would've arranged Mr C to be transferred to the public hospital, even if had been given more time to assess the situation. Red Sands' own medical team, and the local agent, recommended Mr C to remain at the private facility he was at, and to have surgery as soon as possible. Additionally, it didn't seem reasonable for Mr C to be moved to a hospital that wouldn't provide Red Sands any medical reports, so it wouldn't have been able to get information for the treatment needs or repatriation.

Red Sands has said its notes also show that the private hospital was unable to perform surgery on Mr C on 1 April 2022, so there was a window of opportunity to move Mr C to a public facility once it had been confirmed he was medically fit to be moved. Red Sands has also said that whilst the local agent may not be able to obtain medical information from the public hospital, its own medical team were well versed in gathering medical updates and they would've been able to phone the hospital for medical updates.

But from looking through Red Sands' notes, it wasn't until around 11am on 2 April 2022 when it was asking Mr C to be transferred to the public hospital. And this was still without confirmation of when surgery could be performed there, and the hospital was over an hour away. At this point, I think Red Sands also missed an opportunity to consider moving Mr C to the other, recommended, private hospital.

Having considered everything, I think it's unlikely Red Sands would've moved Mr C to another facility, even if Mr and Mrs C hadn't already paid for the treatment to go ahead at the private hospital. I say this considering Red Sands' own medical team's notes, the local agent's recommendations, and considering the urgency of treatment needed.

Overall, I'm minded to say it would be fair and reasonable for Red Sands to pay for Mr C's claim for the initial private treatment he received, at the hospital he received it at.

Mr C's follow up treatment

Mr C was discharged from the hospital on 6 April 2022, and Red Sands was arranging him and Mrs C to return home. But before Red Sands was able to do that, Mr C had to go back to the hospital on 10 April 2022.

Red Sands says Mr C explicitly chose to attend the private hospital on his second admission, as he'd already been told private treatment wasn't covered. Red Sands has also referred to a phone call between its medical team and the hospital where the interpreter explained that when Mr C was taken to the emergency department, he would've been given the option to be treated privately, or to be transferred to the public hospital over an hour away. But as Mr C paid a deposit for the private hospital, that means he chose to be treated at the private facility instead of the public one. Overall, Red Sands doesn't think it should pay for Mr C's second admission to the private hospital.

I've thought about this carefully. But as I think it's more likely than not that Red Sands would've ultimately authorised Mr C to be treated at the private hospital for the initial treatment, I don't think it's unreasonable that Mr C went back to the same hospital. I can also see that Red Sands tried to contact the public hospital several times, but it was unable to speak to anyone.

Overall, I'm minded to say that it would be fair and reasonable for Red Sands to also pay Mr C's claim for the follow up treatment at the private facility.

If Mr and Mrs C can show they've paid for the medical costs themselves, I think Red Sands should also pay them 8% simple interest from the date Mr and Mrs C paid these costs until the date of settlement. But I know Mr and Mrs C's son paid some of these costs. As he's not a policyholder, and therefore not a party to this complaint, I don't think Red Sands needs to pay any interest on these amounts until these have been paid by Mr and Mrs C – either directly to the hospital or their son. It's for Mr and Mrs C to provide Red Sands with reasonable evidence to show who made those payments and when.

I've also considered whether Red Sands' actions have caused Mr and Mrs C unnecessary distress and inconvenience. And I'm aware most of the contact has been between their son and Red Sands. Again, as he's not a policyholder, I can't make any awards to him for any distress or inconvenience he experienced. That said, I do think Red Sands' refusal to agree to cover the private treatment, or offer a reasonable alternative promptly, caused Mr and Mrs C distress and inconvenience. I'm minded to say £200 is fair in the circumstances."

Red Sands didn't agree with my provisional findings. In summary, it said the following:

- Red Sands had made it very clear private treatment wasn't covered – both in the policy documentation and during live assistance.
- It would've been highly unlikely Red Sands would've been able to find out from the public facility when surgery would take place as this could only be commented on after assessing the patient.
- On the second admission, Mr and Mrs C were given the option to receive private or public treatment. Had they chosen to receive public treatment, this would've been provided at no cost.

Additionally, Red Sands sent examples of receiving information from the public hospital and discussing treatment with the hospital relating to other patients.

Mr and Mrs C didn't provide any further comments in response to my provisional findings.

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.

I've thought carefully about the points Red Sands has made in response to my provisional decision, and the further evidence it has sent. But overall, these don't change my findings.

My decision is based on the individual circumstances of this complaint. Firstly, I don't think it's unreasonable that Mr C first went to the private hospital. This is because this is where he was taken by the ambulance, he was in pain and needed urgent care, the public hospital was over an hour away and Mr and Mrs C's son had spoken to that hospital and he says it hadn't been able to confirm Mr C could be treated urgently.

That said, this on its own doesn't mean it would be fair and reasonable for Red Sands to pay the claim, considering the policy terms and conditions on private treatment.

But what's important here is that, as I explained in my provisional decision, Red Sands' own medical team recommended Mr C to have the treatment locally as soon as possible. And even when Red Sands got in touch with the private hospital to query the possibility of moving Mr C to the public hospital (by which time more than 24h had already passed), its own notes said not to go ahead if this would cause delays – rather, an update would need to be provided. It's also clear that the local agent Red Sands approached didn't recommend transferring Mr C to the public hospital.

Overall, I still think it's more likely than not that Red Sands wouldn't have (or reasonably shouldn't have) moved Mr C to another facility, even if Mr and Mrs C hadn't already paid for the treatment to go ahead at the private hospital. I say this considering Red Sands' own medical team's notes, the local agent's recommendations, and considering the urgency of the treatment needed.

On the second admission, Red Sands is now saying the private hospital was obligated to provide emergency public treatment at no cost. But this isn't what all the other information I've seen shows. I accept that it's possible Mr and Mrs C would've been given the option to receive public treatment, but this would've meant moving Mr C to the public hospital over an hour away. And Mr and Mrs C have explained he was in pain at the time.

And in any event, as I explained in my provisional decision, as I think Red Sands would've ultimately authorised Mr C to be treated at the private hospital for the initial treatment, I don't think it's unreasonable that Mr C went back to the same hospital. Additionally, the notes show that Red Sands tried to contact the public hospital several times, but it was unable to speak to anyone.

I've thought about the information Red Sands has sent to show it's been able to communicate with the public hospital. But in the circumstances of this complaint, the information Red Sands had at the time was a recommendation from its own medical team and local agent that Mr C should be treated locally. The local agent had also highlighted a concern about lack of information from the public hospital, which I think would've been very important at the time considering the urgency of treatment needed.

Having considered everything again, I've reached the same conclusions I did in my provisional decision, and for the same reasons. Overall, I don't think Red Sands has acted fairly or reasonably in declining Mr and Mrs C's claim for private treatment.

I also explained in my provisional decision my findings on interest on the award, and what I thought was fair compensation for the distress and inconvenience caused. As neither party has given me anything new to consider on these aspects, I see no reason to depart from the findings I reached on these in my provisional decision.

My final decision

My final decision is that I uphold Mr and Mrs C's complaint. I direct Red Sands Insurance Company (Europe) Limited to do the following:

- pay for Mr C's private medical treatment costs in line with the remaining terms and conditions of the policy,
- pay Mr and Mrs C 8% simple interest on these costs from the date they paid them (either to the hospital or their son) until the date of settlement, and
- pay Mr and Mrs C £200 for the distress and inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C and Mrs C to accept or reject my decision before 15 June 2023.

Renja Anderson
Ombudsman