

## **The complaint**

Ms H complains about how Euroins AD dealt with a claim against her travel insurance policy.

## **What happened**

The details of this complaint are well known to both parties, so I won't repeat them again here in full. In summary, in January 2022, Ms H purchased an annual travel insurance policy underwritten by Euroins. She chose the premier cover level. The policy started on 4 February 2022. Ms H went on a trip with departure and return dates of 17 July 2022 and 25 July 2022 respectively. On arrival at the airport at her first destination, Ms H discovered that her luggage was missing. On 19 July 2022, Ms H purchased replacement items. Ms H's luggage was returned to her on 21 July 2022.

In July 2022, Ms H made a claim against her policy for £208.77. Euroins paid Ms H £25 which it said was under the delayed baggage provisions in the policy. They directed Ms H to the airline in relation to her other losses.

Ms H complained about Euroins settlement of her claim. She doesn't think that Euroins settled her claim fairly. Ms H says that the policy says that it will pay £25 per day for delayed baggage up to a maximum of five days but it paid her for only one day. She says that she spent more than the maximum allowed in one shopping trip. Ms H wants Euroins to settle her claim.

One of our investigators looked at what had happened. Initially, he didn't think that Euroins had treated Ms H unfairly. Ms H didn't agree with the investigator. He reconsidered the matter. The investigator said that Euroins should settle Ms H's claim for £125 - the delay benefit of £25 for five days. He also said that he was satisfied that Ms H's losses aren't recoverable from any other source.

Euroins didn't agree with the investigator. It said that he had misinterpreted the policy terms and that the policy provides that it will pay *up to* the amount shown in the summary of cover (£25) for the cost of buying replacement necessities. Euroins asked that an ombudsman consider the matter, so the complaint was passed to me to decide.

Ms H has made a separate complaint about the service she received. That isn't dealt with here.

## My provisional decision

On 9 June 2023, I sent both parties my provisional decision in this case. I said that I intended to uphold the complaint but for different reasons and with a different outcome than suggested before. I said:

### 'the relevant terms and conditions'

*The starting point is the terms and conditions of the policy, the relevant parts of which say as follows:*

#### **'PERSONAL POSSESSIONS AND BAGGAGE'**

##### **What you are covered for**

*[...]*

*2. We will pay up to the amount shown in the summary of cover for the cost of buying replacement necessities if your baggage is delayed in reaching you on your outward journey for at least 12 hours and you have a written report from the carrier to confirm this.*

*[...]*

##### **What you are NOT covered for**

*[...]*

*15. any property more specifically insured or recoverable under (sic) any other source. [...]*

*The summary of cover is a table, the relevant part of which says as follows:*

<b>'SUMMARY OF COVER'</b>		
<b>Cover</b> <i>Per person unless otherwise shown</i>	<i>[...]</i>	<b>Premier Cover</b> <b>Limits up to</b>
<i>[...]</i>	<i>[...]</i>	
<b>Personal Possessions and Baggage</b> <i>[...]</i> <ul style="list-style-type: none"><li><i>Delayed Baggage</i></li></ul>	<i>[...]</i>	<i>£25 per day</i> <i>To a maximum of £150'</i>

### has the claim been settled unfairly?

*The relevant rules and industry guidance say that Euroins has a responsibility to handle claims promptly and fairly and it shouldn't reject a claim unreasonably. I intend to uphold Ms H's complaint but for different reasons and with a different outcome than have been set out before. I'll explain why.*

- Insurance policies aren't designed to cover every eventuality or situation. An insurer will decide what risks it's willing to cover and set these out in the terms and conditions of the policy document. The onus is on the consumer to show that the claim falls under one of the agreed areas of cover within the policy. If the event is covered in principle but is declined on the basis of an exclusion set out in the policy the onus shifts to the insurer to show how that exclusion applies.*
- I've set out above the relevant policy terms. The policy doesn't provide a daily fixed benefit of £25 per day for delayed baggage. Subject to the policy terms, it provides cover for up to £25 per day (to a maximum of £150) for the cost of buying replacement necessities if baggage is delayed for at least 12 hours. Also, there's no cover for the general inconvenience of delayed baggage.*

- *I don't think that Euroins was at fault in initially referring Ms H to the airline. That's because the policy doesn't cover losses recoverable elsewhere. But in the circumstances here, given the level of the claim, Euroins agreed to deal with Ms H's claim. I think that was fair. In any event, the airline subsequently declined Ms H's claim.*
- *I think that Euroins acted in accordance with the policy terms when it paid Ms H £25. That's because Ms H bought replacement necessities on only one day - 19 July 2022. So, in accordance with the policy terms, Euroins is only obliged to pay £25 for Ms H's expenditure on replacement necessities. But I don't think that results in a fair outcome in this case.*
- *Ms H was on an organised tour which moved location. So, her itinerary, transport, and opportunity to shop weren't in her direct control. Ms H has explained that she didn't have an opportunity to buy clothes or toiletries until 19 July 2022. In the particular circumstances of this case, I think it's fair and reasonable for Euroins to reassess Ms H's claim as if she bought her replacement essentials over three days.*
- *I've referred to three days, as Ms H's flight was due to land at 1.45 pm on 17 July 2022. I understand that it was slightly delayed. The policy provision applies after baggage delay of at least 12 hours. So, it wasn't until 18 July 2022 that the policy provisions in relation to delayed baggage were activated. And Ms H's luggage was returned to her in the early hours of 21 July 2022, so was available to her on that day. I've noted what Ms H says about the circumstances of the return of her baggage and the fact that she couldn't use her returned baggage until later on 21 July 2022, but that's not Euroins responsibility.*
- *In considering what's fair and reasonable in this case I've noted that Ms H's claim is modest and that she didn't spend excessive amounts. If Ms H had been able to do so, she would no doubt have purchased replacement necessities over a number of days and bought new or top-up items daily, as the need arose, until her baggage was returned to her. So, I think it's fair and reasonable to direct Euroins to assess her claim as if she made the purchases over three days.*
- *Euroins may take into account the payment it has already made to Ms H. As Ms H has been kept out of the use of the settlement, Euroins should pay interest on any additional settlement, from the date of Ms H's claim, to the date of payment.*
- *It's not for this service to assess Ms H's claim but I would point out that the policy covers replacement necessities. The policy doesn't cover additional transport costs in the circumstances that arose here.'*

## **Responses to my provisional decision**

Neither Ms H nor Euroins agreed with my provisional decision. Ms H said, in summary:

- Euroins hasn't taken into account that she bought the premier policy.
- The settlement of £25 she received from Euroins is a pittance compared with what she spent following the baggage delay.
- The policy seems like a waste of money.

- She had to spend over £200 and Euroins should reimburse that amount.

Euroins relied on the policy terms and said that as Ms H had purchased replacement items on one day it paid the maximum of £25. It said that it didn't agree that it should review the claim and settle it based on purchases on three days, as that's not what happened here.

### **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 taken into account that Ms H chose the premier cover level. The cover is for up to £25 per day to a maximum of £150.

As I said in my provisional decision, insurance policies aren't designed to cover every eventuality or situation. An insurer will decide what risks it's willing to cover and set these out in the terms and conditions of the policy document.

Euroins isn't obliged to reimburse the amount Ms H spent following the delay of her baggage. In general terms, insurers are entitled to rely on the terms and conditions of the policy in assessing a claim. Euroins acted within the terms of the policy when it paid Ms H £25. I appreciate that is much less than Ms H spent but, strictly speaking, that's what she's entitled to under the policy terms. But, for the reasons I've explained I don't think that leads to a fair and reasonable outcome in this case.

Euroins is right to say that Ms H didn't buy replacement necessities over three days. Ms H has explained the circumstances she was in – she was on an organised tour with several locations and her opportunities to shop were severely limited. I remain of the view that in the particular circumstances of this case, it's fair and reasonable for Euroins to reassess Ms H's claim as if she bought her replacement essential items over three days. That fairly reflects the circumstances in which Ms H found herself. And it's not unfair to Euroins, as that's what it would have paid if Ms H had been able to shop over three days.

### **Putting things right**

In order to put things right, Euroins should:

- Reassess Ms H's claim on the basis that she bought replacement necessities on three days. In doing so, Euroins may have regard to the remaining policy terms and may deduct from the settlement the £25 it has already paid to Ms H.
- Pay interest on any further settlement at the simple rate of 8% per year, from the date of the claim to the date of payment.

**My final decision**

My final decision is that I uphold this complaint. Euroins AD should now take the steps I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms H to accept or reject my decision before 19 July 2023.

Louise Povey  
**Ombudsman**