

The complaint

Mr B and Mrs B complain that UK Insurance Limited (UKI) has unfairly rejected a claim made under their Travel Insurance policy.

For ease of reading, I will only refer to Mr B in my decision.

What happened

Mr B had planned a short break to Europe for around five days. He arrived at the airport and boarded his flight, but after a four and half hour delay the flight was cancelled. Mr B decided to abandon his holiday as the next available flight wasn't until around three days later. This meant he would have had only a couple of days left of his holiday.

Mr B said the airline reimbursed the cost of the flight, and he received a refund for some of his accommodation costs, but this left him out of pocket for around £500. Mr B claimed against his travel insurance for his remaining outlay.

UKI said the abandonment terms of his policy would only apply if there were a delay of 12 hours, as Mr B's holiday was for five days or more. They said Mr B's flight was only delayed by four and a half hours prior to its cancellation, so the claim was declined fairly.

Mr B didn't agree he said he'd had to abandon his holiday as there wasn't a flight until over 72 hours later than he expected to take off. He referred his complaint to us.

Our investigator said that Mr B's flight effectively was delayed by more than 12 hours and so the abandonment policy terms had been met. He said UKI should reconsider Mr B's claim in line with the abandonment terms of the policy as his flight had been delayed by over 12 hours.

UKI didn't agree they said there was a specific term in the policy that said an abandonment claim wouldn't be covered where the flight was cancelled by the operator. They asked for an ombudsman to decide.

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.

When reaching a decision, I will consider the relevant legislation and guidance as well as the terms and conditions of the insurance policy. Our role when considering complaints is to reach an outcome that is fair and reasonable. So, although I'd have the relevant rules and terms and conditions in mind, my decision can depart from these where I think this provides for a fair and reasonable outcome.

The terms of the policy set out cover for a number of insurable risks, cancellation, curtailment, missed flight, delay and abandonment. Mr B's claim was made as he'd had to abandon his trip, after it had started – he'd arrived at the departure point. The policy provides

cover where there's a delay or a trip is abandoned after six hours or 12 hours of delay, so there is an entitlement to the policy benefit. Abandon is defined in the policy terms and conditions as "*cutting short and not recommencing your trip*"

The policy terms are:

"Abandoned International Departure (outbound only)

We will cover you for your:

- *unused deposits:*
 - *accommodation and travel costs (including car hire, excursions and activities): and*
 - *unused kennel, cattery, professional pet sitter or car parking charges*
- that you have paid or legally have to pay if you choose to abandon your trip because your pre-booked aircraft, ship or train is delayed beyond the time shown on your travel itinerary at the point of international departure from the UK by more than:*
- *six hours if your trip is scheduled to last four nights or less: or*
 - *12 hours if your trip is scheduled to last five nights or more.*

The policy under this section also says what's not covered – "*any claim where the aircraft, ship or train on which you are booked to travel is cancelled by the operator*"

And UKI are relying on the terms that Mr B's flight hadn't been delayed for 12 hours, and that the flight had been cancelled in declining his claim. Although UKI seems to have technically applied their terms correctly, I've considered whether it should have settled the claim on a fair and reasonable basis. And I don't think they have. I'll explain why.

I think travel delay and abandonment cover applies where the consumer has already started their insured journey and has arrived at the airport, and checked in, in good time for their journey. Which is the case here. Cancellation cover only applies when the trip is cancelled before the trip has started.

Mr B had planned to be away for five days, he arrived at the departure airport for his flight, and although his original flight was cancelled, a flight was arranged for several days later, so in effective his trip was delayed. And as this cut into most of his holiday Mr B abandoned his trip. I don't think Mr B could have reasonably taken any further steps to try and mitigate his losses. Accordingly, I think he'd little choice but to decide to abandon his trip. So, I'm satisfied that this claim can be considered as valid under this part of the policy.

UKI has applied the policy term that Mr B's flight was only delayed by four and a half hours as it was cancelled after that time. But as Mr B couldn't get another flight until three days later. Based on the specific facts of this complaint, I don't think it's fair or reasonable for UKI to have declined Mr B's claim. I'm persuaded that there was in effect a delay of more than 12 hours. And this led to Mr B having no choice but to abandon his trip.

UKI said that the cancellation of the flight meant that they could decline Mr B's claim. But I'd consider that such a strict application of the policy terms isn't fair. While a flight was cancelled another flight was arranged. Unfortunately, as outlined above Mr B couldn't take advantage of this due to the unrealistic contraction of his holiday plans.

The airline would have its own obligations to compensate the consumer for costs caused by their action in cancelling a flight. And I'd consider this term would apply where it would be the responsibility of the airline to indemnify the consumer for any claim made for the cost of the cancelled flight. I can see that the airline has indemnified Mr B for his cancelled flight. So, he isn't making a claim to cover the cost of the cancelled flight.

I can also see that Mr B has taken reasonable steps to recover his other losses. But this still leaves a shortfall of £549.12.

I consider UKI unfairly relied on their terms to decline this claim, even though the flight was technically cancelled instead of being delayed, the result of the cancellation is the same, Mr B was delayed from making the trip until it was too late for him to carry on, which I consider is an outright abandonment of the trip. So, I think UKI should settle the claim as such.

Putting things right

So, I think its fair and reasonable for UKI to consider the financial impact the abandonment of his holiday had on Mr B. And for UKI to settle his claim in line with the policy terms covered under “*Abandonment*” where there has been a delay of 12 hours or more. As Mr B isn’t claiming for the cancelled flight itself, I don’t think UKI can rely on the exclusion they’ve used to decline Mr B’s abandonment claim.

My final decision

I uphold this complaint. And ask UK Insurance Limited to put things right as outlined above.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr B and Mrs B to accept or reject my decision before 20 September 2023.

Anne Scarr
Ombudsman