

## The complaint

Ms S complains about Astrenska Insurance Limited trading as Collinson Insurance's ("Astrenska") decision to decline her claim under her travel insurance policy.

## What happened

Ms S travelled abroad but, when she arrived at her destination, her baggage didn't arrive until around a month later. So, Ms S made a claim to the airline who paid her £1,519.53. Ms S says this was compensation for her delayed baggage and having to buy items to enable her to continue with her trip. Ms S says, when her baggage arrived, one suitcase had a damaged lock and she found there were items missing so she made a claim under her policy. Astrenska paid Ms S £250 for her delayed baggage but declined her claim for her damaged and missing items on the basis the airline had already compensated Ms S for this. Ms S complained and said the compensation from the airline was for her delayed baggage and didn't factor in her missing items.

Astrenska responded and explained Ms S's claim for the delayed baggage had been paid correctly at the policy limit of £250. Astrenska explained the compensation received from the airline was for the loss, delay or damage of Ms S's baggage. They said, the amount Ms S is claiming, for the damaged and missing items, is less than the amount paid by the airline. So, as Ms S had already been compensated for the loss, delay and damage to her property, Astrenska wouldn't consider any payment.

After considering all of the evidence, I issued a provisional decision on this complaint to Ms S and Astrenska on 9 October 2023. In my provisional decision I said as follows:

*"My starting point is Ms S's travel insurance policy booklet. This sets out the terms and conditions and, under a section headed 'Baggage' it says cover is provided for 'Delayed baggage' and 'Lost, stolen or damaged baggage'. In relation to delayed baggage claims it says, in the event baggage is temporarily lost, Astrenska will pay for the replacement of essential items – up to a maximum of £250. In relation to lost, stolen or damaged baggage claims it says, cover is provided for loss, theft or accidental damage to a policyholder's personal belongings during their trip – up to a maximum of £5,000. The policy also lists general exclusions and says the policy won't cover "Costs recoverable elsewhere."*

*My role requires me to say how a complaint should be settled quickly and with minimal formality and so I'll focus on what I consider to be the crux of the complaint and the main areas of dispute.*

*There doesn't appear to be any dispute around there being an insured event here, or of Ms S having a claim under the 'Delayed baggage' and 'Lost, stolen or damaged baggage' sections of the policy. The dispute here relates to Astrenska's decision to decline to pay Ms S's claim for the damaged and missing items on the basis she has already received compensation for this from the airline – which they say covers loss, delay or damage to her property. Astrenska say the compensation from the airline would be deducted from the settlement irrespective of whether the compensation was for loss or delay. Ms S feels this is unfair as the payment from the airline was for*

*the delayed baggage and Ms S having to purchase replacement items, but not the damaged and missing items.*

*From the information I've seen, it's clear Astrenska have looked into two separate claims for Ms S. I say this because they've assigned two separate claim references – one for the delayed baggage claim and one for the damaged and missing items. In addition to this, the policy lists these under two separate sections. So, I'm satisfied it's reasonable to treat these as two separate claims. There's no dispute Ms S has already received compensation from the airline. But, given the policy says Astrenska won't cover costs which are recoverable elsewhere, I understand why they wouldn't want to cover a claim in circumstances where a policyholder has already received compensation for the subject matter of the claim. So, I've looked at the communication between Ms S and the airline to determine what their payment reflects.*

*Astrenska say the airline has confirmed, "Under the Montreal Convention, liability for loss, delay or damage to baggage is limited to..." They say this demonstrates the damaged and missing items Ms S is claiming for has already been paid by the airline. But Ms S contacts the airline to seek clarity on the position with the payment received. The airline email Ms S and explain they received a "...delayed baggage and missing items claim..." from Ms S. They confirm they paid \$1,648.58 USD which was the maximum amount allowed under their Limits of Liability. They explain the remainder, in the sum of \$1,851.42 USD, was declined. Ms S asks the airline to clarify whether their payment took into account her claim for missing items or whether this part was declined. The airline then says, "The total amount you were claiming was 3,500, This included 3,156.71 in delay expenses and 407.08 for missing contents. I paid you 1,648.58 from the delay expenses."*

*So, taking this into account, I'm not persuaded the compensation Ms S received from the airline takes into account her damaged and missing items claim. It's clear a claim was made, but I think the airline's response makes it clear the payment made relates only to the expenses incurred by Ms S as a result of her delayed baggage. So, I don't think it's fair in the circumstances for Astrenska to decline Ms S's claim for damaged and missing items on the basis she has already received compensation for lost, delayed or damaged items.*

*I've taken into account the general exclusion around costs being recoverable elsewhere, but the information shows Ms S has attempted to claim this from the airline, but this part of the claim wasn't successful – so I can't say the claim for the damaged and missing items is recoverable elsewhere. In these circumstances, I think Astrenska have unreasonably declined the claim. So I think the fair outcome is for Astrenska to settle Ms S's claim.*

*I can see Astrenska have already paid Ms S £250 for her claim under the delayed baggage section of the policy. So, in applying the general exclusion mentioned above, it's clear these costs have been recovered from elsewhere. In addition to this, under the section relating to 'Lost, stolen or damaged baggage', it says if Ms S has also made a claim under the delayed baggage section, then this amount will be deducted from the amount claimed under the 'Lost, stolen or damaged baggage' section. So, I think it's reasonable in the circumstances for Astrenska to deduct the £250 already paid from the settlement amount in relation to the claim for the damaged and missing items."*

So, subject to any further comments from Ms S or Astrenska, my provisional decision was that I was minded to uphold this complaint and require Astrenska to settle the claim.

Following my provisional decision, no representations have been made by either party.

### **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, and with no representations being made, I see no reason to depart from my provisional decision. So, I've decided to uphold the complaint for the reasons set out in my provisional decision and copied above.

### **Putting things right**

I've taken the view that Astrenska have unfairly declined Ms S's claim for damaged and missing items. So, Astrenska should settle Ms S's claim, in line with the remaining terms and conditions of the policy. Astrenska should add 8% simple interest per year on the settlement amount from 12 January 2023 (the date they originally declined the claim for damaged and missing items) to the date of settlement. Astrenska should provide Ms S with a certificate showing any taxation deducted. Astrenska are able to deduct the £250 paid to Ms S from the claim settlement relating to the damaged and missing items claim.

### **My final decision**

My final decision is that I uphold the complaint. Astrenska Insurance Limited trading as Collinson Insurance must take the steps in accordance with what I've said under "Putting things right" above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms S to accept or reject my decision before 5 December 2023.

Paviter Dhaddy  
**Ombudsman**