

## **The complaint**

Mr W has complained that AWP P&C SA (AWP) declined a claim he made on a travel insurance policy linked to his bank account.

## **What happened**

In May 2023, Mr W was due to fly to Europe to attend a sporting event. His destination was subject to severe flooding at the time and the sporting event was cancelled as a result of this, a few days before it was due to take place. Mr W says he looked at the advice from the Foreign, Commonwealth & Development Office (FCDO) and made a late decision not to travel. He was therefore claiming for the cost of flights, hotel accommodation and car hire.

AWP declined the claim on the basis that the circumstances were not covered under the policy terms.

Our investigator thought the complaint should be upheld on a fair and reasonable basis as the 'cancellation and curtailment' section of the policy set out that cancellation was covered if there is a government directive prohibiting travel. In relation to the flooding, the FCDO website advised to follow local advice – and the local advice was that only essential journeys should be made.

AWP disagree with the investigator's opinion as the clause being referred to goes on to say that cover only applies if the government directive comes into force after someone has already left the UK.

I wrote a provisional decision last month in which I explained that I agreed with our investigator that the complaint should be upheld. However, because I was expanding on the reasoning, I thought it would be appropriate to give the parties the chance to comment further before reaching a final decision.

Mr W responded to say that he agreed with my provisional decision. AWP didn't submit any further comments.

## **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 carefully considered the obligations placed on AWP by the Financial Conduct Authority (FCA). Its 'Insurance: Conduct of Business Sourcebook' (ICOBS) includes the requirement for AWP to handle claims promptly and fairly, and to not unreasonably decline a claim.

As set out in my provisional decision, the policy terms state, under 'general exclusions':

*'We will not pay for claims arising directly or indirectly from:*

*You not following any advice or recommendations made by the FCDO, the World Health Organisation, or any government or other official authority....'*

Under 'Section 1 - cancellation and curtailment', the policy states:

*'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...'*

It then sets out a list of nine insured scenarios, number 8 being:

- *'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 had left the United Kingdom.'*

AWP initially declined the claim on the basis that flooding was not one of the insured reasons listed. It said it would only cover flooding if there was specific guidance directly from the FCDO advising against travel.

In my provisional decision I accepted that flooding is not mentioned in the list of insured reasons and that it was also the case the FCDO did not advise against all travel. So, on a strict interpretation of the policy, Mr W's claim may not be covered. But I went on to say that I can depart from a strict application of the contract terms if I conclude they produce an unfair result.

As set out above, there is also a general exclusion in the policy terms for travel against FCDO advice or recommendations and this isn't limited to FCDO advice against 'all travel' only. Just prior to the trip, the FCDO advice was to follow the instructions of local authorities, which was to limit travel to essential journeys only. Mr W's trip to enjoy a sporting event wouldn't be classed as essential, even if it hadn't been cancelled. So, I think it's trips such as this that the local authorities were advising against. Regardless of whether the advice was for 'all travel' or 'non-essential travel', the impact of the advice on both Mr W and AWP, and the level of risk posed by travel to the area was the same. As such, I consider it unfair for AWP to distinguish between the two types of FCDO advice when assessing this particular claim.

AWP said it had additionally turned down Mr W's claim because the local government and FCDO advice was already in place prior to his departure from the UK. It said the relevant clause regarding a need for the policyholder to have already left the UK before a government directive prohibiting travel was made shouldn't be disregarded.

However, the policy doesn't have a separate section for cancellation and then another for curtailment. Section 1 of the policy is for 'cancellation and curtailment' altogether.

Therefore, the layout and wording suggests that the list of insured scenarios within this section are covered in the event of cancellation *or* curtailment. But, as AWP is saying the clause relies on someone having already left the UK, that can only really relate to curtailment claims.

As I said in my provisional decision, If AWP wanted this cover to only apply to curtailment claims, it should have set that out clearly in the policy terms. But it hasn't made this distinction and therefore the cover applies to cancellation *or* curtailment claims.

The first part of the clause, talking about 'planning to visit' is suggestive of relating to cancellation cover for a trip that has not yet started. The remainder of the clause, talking about the area you were staying in, refers more clearly to curtailment cover. So, it is only the second part of the clause that requires a policyholder to have left the UK before curtailment cover will apply.

This might not have been AWP's intention. But, overall, I find the clause to be ambiguous enough to consider it fair for AWP to interpret it in Mr W's favour.

As neither party objected, I see no reason to depart from the conclusions reached in my provisional decision. On that basis, I consider that a fair and reasonable outcome would be for AWP to settle Mr W's claim, in line with the remaining terms and conditions of the policy. Mr W's original claim was for costs for himself and two travelling companions. As the policy only covers Mr W, the settlement should be for costs apportionable to him.

I also think that AWP should add interest to the settlement at an annual rate of 8% simple, from the date of the claim until the date it is settled.

### **My final decision**

For the reasons set out above, my final decision is that I uphold this complaint.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 19 March 2024.

Carole Clark

**Ombudsman**