

## **The complaint**

Mr Q is unhappy with the amount U K Insurance Limited (UKI) paid to settle a claim he made under the legal expenses section of his travel insurance policy.

## **What happened**

In June 2022 Mr Q made claims on his travel insurance policy for costs associated with him being denied check in for a flight. A legal expenses claim was accepted and considered by panel solicitors to have reasonable prospects of success (as required by the policy). However, they subsequently advised it wasn't proportionate to pursue. UKI agreed to pay Mr Q the difference between the legal costs already incurred and the value of the claim. That complaint has already been considered by us. Our investigator thought that was a fair way of resolving matters and the complaint closed on that basis.

Mr Q subsequently made a new complaint about the amount being offered under the policy in settlement of his claim. He thought the claim value should include the interest he believed would have been awarded if it had been successful. UKI said it had paid the amount the panel solicitors confirmed the value to be. Our investigator thought UKI was entitled to rely on their advice.

Mr Q didn't agree. He said the solicitors hadn't said he wouldn't receive interest but couldn't confirm whether he would have done in the jurisdiction where his claim would have been heard. But they had said if the claim had been issued in the UK it would have included interest at a rate of 8%. And it was for UKI to decide whether that should form part of this claim value. Mr Q thought it was unreasonable UKI hadn't included it. He also raised issues relevant to the decline of his travel insurance claim

## **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 appreciate in correspondence with us Mr Q has raised concerns which relate to the outcome of his travel insurance claim. However, as our investigator has explained those aren't matters I'm looking at. I'm only considering in this decision issues associated with Mr Q's legal expenses claim. In particular whether UKI acted fairly in deciding not to include interest when deciding on the value of that claim.

In thinking about that I've taken into account that the relevant rules and industry guidelines say UKI has a responsibility to handle claims promptly and fairly. It shouldn't reject a claim unreasonably. And I've looked at the terms and conditions of Mr Q's policy. This does provide cover for *"legal costs to help you claim compensation for breach of contract on an agreement you have for services provided or due to be provided during your trip"*.

However, the policy says for a claim to be covered it must have *"reasonable prospects of success"* and the definition of that includes *"a better than 50% chance that you will obtain a successful judgment and recover losses or damages"*. The policy goes on to explain *"we can refuse to pay further legal costs if we or the appointed representative consider that those legal costs would be disproportionate to the value of the claim"*. And it says UKI can settle a claim *"by paying you the compensation you are likely to be awarded by a court instead of starting or continuing your claim or legal proceedings"*.

In this case I don't think it's in dispute Mr Q's claim was assessed as having reasonable prospects of success. The issue was the costs involved meant it wouldn't be proportionate to pursue. UKI nevertheless agreed to pay the difference between the value of the claim and the costs already incurred which I understand was covered by the above policy terms as they relate to economic settlement.

The issue is over what the value of Mr Q's claim should be. I appreciate he feels that should include interest. But I think it's reasonable of UKI to be guided by the advice from the panel solicitors on this. Their advice was if the claim had been issued in the UK it would have included interest but a decision on whether to award that would have been at the sole discretion of the court. They made no comment on whether interest would be payable in the jurisdiction where the event took place. And they confirmed a figure for the claim value which didn't include interest.

In addition the policy term on economic settlement reference the compensation *"you are likely to be awarded by a court"*. I appreciate Mr Q has provided some general information about interest awards in the jurisdiction where his claim would have been heard. But I don't think there's any clear legal advice to show that what he'd likely have been awarded on this claim. I'm also mindful of the fact that Mr Q's claim was assessed as not being proportionate to pursue. So under the terms of his policy UKI could have declined to pay any further amounts in relation to his claim at all.

Taking all of that into account I don't think it was unreasonable of UKI to pay the claim value as confirmed by Mr Q's solicitors but not to add interest on top of that.

### **My final decision**

I've decided not to uphold this complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Q to accept or reject my decision before 17 August 2024.

James Park  
**Ombudsman**