

## **The complaint**

Mr M and his family have complained that AWP P&C SA declined a claim made on his travel insurance policy linked to a bank account.

As the complaint is being made by Mr M, on behalf of himself and his family, I will mostly just be referring to him in this decision.

## **What happened**

The family were due to fly home from a holiday in Europe on 28 August 2023. However, the flight was cancelled due to problems with UK air traffic control systems caused by significant technical issue.

Mr M received a refund for the flights and the travel company arranged for extra hotel accommodation and a return to the UK by coach. But Mr M made a claim on the policy, under the travel disruption cover, for additional costs incurred such as for food and a taxi home from London on arrival back in the UK.

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

I wrote a provisional decision last month in which I explained why I wasn't thinking of upholding the complaint. Neither AWP nor Mr M made any comments in response to my provisional decision.

## **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.

Looking at the policy wording, under '*Section 3 – Travel disruption*', it states:

*'What is not covered:*

*Anything specifically excluded under the General exclusions or General conditions sections on pages 39-40.'*

Then, under '*General exclusions*', it states:

*'28. Cyber risks of any kind.'*

The policy defines '*Cyber risk*' as:

*‘Any unauthorised, malicious or illegal act (or the threat of such an act), involving access to or the processing, use or operation of any computer system;*

*Any error or omission involving access to or the processing, use, or operation of any computer system;*

*Any partial or total unavailability or failure to access, process, use or operate any computer system; or*

*Any loss of use, reduction in functionality, repair, replacement, restoration or reproduction of any data, including any amount relating to the value of such data.’*

The policy additionally defines ‘computer system’ as:

*‘Any computer hardware, software, communication system or electronic device (including smartphones, laptops, tablets and wearable devices), server, cloud, microcontroller or similar system (including any associated input, output or data storage device, networking equipment or backup facility).’*

The above policy wording was in place prior to 31 August 2023.

As I explained in my provisional decision, although our investigator thought that there had been a change to the policy wording on 31 August 2023, that wasn’t the case. Rather, in light of the wide-spread disruption caused by the air traffic control failure, AWP issued a notice to policyholders, clarifying what it would and wouldn’t consider covering.

The notice explained that the current terms and conditions excluded claims relating to cyber risk. But, given the unprecedented circumstances, it was now prepared to consider certain claims on an ex-gratia basis, where a policyholder had no other avenues for recovering costs.

Therefore, the notice actually enhanced the existing cover. Because AWP was waving its blanket exclusion for cyber risk. So, it said that it would now consider claims for:

*‘Travel disruption – The airlines are required to arrange alternative routes for customers to get home. Where you need to make your own arrangements, e.g. if the first available flight is in 3 days’ time, but you need to get back due to immovable commitments, we would look to cover the reasonable cost of the alternative route home of a similar standard to that originally booked. We would only pay the difference between the refund for your return journey and the cost of the flight home. We will not pay any costs where you have booked with a travel package provider – these costs can be recovered directly from them.’*

But it would not consider claims for:

*‘General travel delay benefit – i.e the monetary benefit intended as payment for inconvenience suffered, that is payable in the event of a delay.’*

Mr M has provided a copy of the official report into the cause of the air traffic control failure and has noted that it was not the result of a cyber attack. However, I think Mr M has misinterpreted the policy terms. As set out above, the policy excluded ‘cyber risk’. So, other disruption to computer systems, aside from cyber attacks, are also not covered.

Looking at what happened, I’m satisfied that the failure of the air traffic control system does meet the definition of ‘cyber risk’ as laid out in the policy terms. As such, the circumstances

that Mr M and his family found themselves in would not normally be covered under the policy.

As already mentioned, AWP's notice of 31 August 2023 set out that it would now consider some claims where the underlying reason for the claim was cyber risk. But Mr M's circumstances do not fit the described scenario as he did not need to make his own arrangements to get home.

And the notice is clear that AWP was not waving the general exclusion for cyber risk in relation to claims such as Mr M's relating to the monetary benefit for inconvenience suffered.

As mentioned in my provisional decision, I do appreciate that it would have been a difficult and stressful time for the family. But the question is whether the circumstances they found themselves in are covered under the policy terms, or under the customer notice of 31 August 2023 – and I'm sorry to say that they are not.

As neither party provided any further comments, I see no reason to depart from the findings made in my provisional decision. It follows that I do not uphold the complaint.

### **My final decision**

For the reasons set out above, my final decision is that I do not uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B, Mr B, Miss B and Mr M to accept or reject my decision before 18 April 2024.

Carole Clark

**Ombudsman**