

## **The complaint**

Mrs E's complaint is about a claim she made on the legal expenses section of her Zurich travel expenses insurance policy.

Mrs E feels that Zurich treated her unfairly.

In this decision, all references to Zurich include their claims handlers.

## **What happened**

Mrs E made a claim on the legal expenses insurance section of her Zurich travel expenses insurance policy. She wanted to claim for a fall she suffered whilst on holiday at the hotel she was staying at, which resulted in her being injured.

Mrs E has provided detailed submissions about how her claim progressed which I don't propose to repeat here. In summary she encountered considerable difficulty in obtaining a straightforward reply to her claim, as it was redirected to several different people with no meaningful progress being made and no decision on the claim for some considerable months. This meant that Mrs E needed to chase Zurich on several occasions and explain what she was seeking in her claim again and again.

After around seven months, Zurich obtained an assessment of Mrs E's claim by a firm of Solicitors. That firm said that the policy contained an exclusion for claims against travel agents. They also outlined in brief some potential issues with bringing a claim against the hotel. As a result of this Zurich declined Mrs E's claim. They also offered her a total of £350 for the service issues she'd experienced.

Unhappy, Mrs E referred her case to the Financial Ombudsman Service. Mrs E's case has always been that she wanted to bring a claim against the hotel directly and not through the travel agent, which was the claim that was excluded under the policy. She felt that Zurich had not understood this and wants them to provide cover for her to pursue her claim against the hotel accordingly.

Our investigator considered Mrs E's complaint. He determined that Zurich hadn't done enough to properly assess Mrs E's claim. He acknowledged the policy exclusion in relation to claims against travel agents but thought that Zurich hadn't supplied a properly reasoned legal opinion on the merits of a claim against the hotel, which is what Mrs E wanted to pursue. As such he said that Zurich should:

- Assess a claim against the hotel in accordance with the policy terms, and determine whether the claim is covered in the first instance;
- If so, arrange for a suitably qualified legal professional to determine whether the claim would have had reasonable prospects of success and been proportionate to pursue had been assessed when it should have been;
- If the claim is should have been covered by Zurich and the limitation has been

breached, Zurich should appoint a Barrister to consider what costs would likely have been covered by the policy, which Zurich should then pay to Mrs E.

- Pay Mrs E £500 in compensation for the delays and service issues.

Since the investigator issued his view, Zurich arranged for a Solicitor to review Mrs E's claim against the hotel. He determined her claim didn't have reasonable prospects of success and was not proportionate to pursue.

Zurich also said that they'd offered Mrs E £350 in respect of the service issues and delays which they felt was sufficient because they'd told Mrs E before that her claim against the travel agent wasn't covered by the policy. Because of this, the matter has been passed to me to determine.

### **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, I agree with the investigator that Mrs E's complaint should be upheld. I'll explain why.

It's clear to me that in finally assessing Mrs E's claim, Zurich continually pointed towards the fact that claims against travel agents weren't covered. But that wasn't the claim Mrs E was seeking to make. She was seeking to make a claim against the hotel directly. And whilst Zurich did obtain some brief comment on that sort of claim from a Solicitor, it didn't amount to a fully reasoned legal opinion, such that we would consider Zurich discharged their obligations to Mrs E by arranging for her claim to be properly considered. So, I find that there was a failing by Zurich here which meant they needed to put things right.

Given that Zurich have now done what the investigator said they should have by obtaining a fully reasoned legal opinion, it seems implicit that Zurich have accepted that this was something they should have done to start with. Unfortunately, I can't tell from that opinion whether Mrs E was given the opportunity to supply the Solicitor with all the evidence to support the claim she wanted to make. If not then I would expect Zurich to afford her the opportunity to do so now, otherwise we are likely to find in any future complaints that Mrs E was not treated fairly, even if the outcome of the legal opinion remains the same.

The legal opinion Zurich have obtained since the investigator issued his view came about after the initial determination of this complaint. So, in directing what Zurich should have done to put things right when this complaint was brought to us (and answered by Zurich) I have set out what the appropriate redress should have been. I appreciate it might make no difference now, but it's important I answer the complaint that was brought by Mrs E and the correct remedy for it is in this decision accordingly, even if matters have moved on somewhat.

Turning now to the issue of compensation; Zurich have said that they've already offered Mrs E £350 in compensation for delays and service issues and that this is adequate given they already told her that her claim against the travel agent wasn't covered. Whilst that might have been the case, they failed to properly address the claim she wanted to make in the way I've said they should have. In addition, it took Zurich around seven months to provide Mrs E with any sort of legal assessment at all. This would have been very frustrating for her and caused her a great deal of inconvenience. I can see she chased them several times and kept pointing out what it was she was seeking in response to a number of communications she had with Zurich. As such I don't agree that £350 goes far enough. In this case £500 is in

my view adequate compensation for the trouble and upset Zurich caused to Mrs E. I've directed Zurich to pay this below.

### **Putting things right**

Zurich should:

- Pay Mrs E £500 for the delays and poor service she received after making her claim.
- Arrange for her claim to be properly assessed by a suitably qualified legal professional to determine whether it has reasonable prospects of success and is proportionate to pursue.
- If the claim is one that Zurich should have covered against the hotel before the expiry of the limitation applicable to it, then Zurich should seek advice from a suitably qualified Barrister on how much Mrs E would have been likely to recover against the hotel and then pay her that amount themselves.

### **My final decision**

For the reasons set out above, I uphold Mrs E's complaint against Zurich Insurance PLC and put things right as I have set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs E to accept or reject my decision before 7 June 2024.

Lale Hussein-Venn  
**Ombudsman**