

The complaint

Mr and Mrs H complain about the way AWP P&C SA has handled a medical expenses claim they made on a travel insurance policy.

What happened

The circumstances of this complaint are well-known to both parties. So I've simply set out a summary of what I think are the key events.

Mr and Mrs H hold travel insurance as a benefit of a packaged bank account.

In August 2023, Mr and Mrs H were on holiday abroad. Unfortunately, Mr H was assaulted and suffered an injury to his arm. He was admitted to hospital for surgery. So Mrs H got in touch with AWP's emergency medical assistance team to make a claim.

A couple of days later, Mr H was discharged from hospital. But he needed to travel to the hospital by taxi for aftercare. And as Mrs H had a disability, a member of Mr and Mrs H's close family travelled abroad to help care for her.

Mr and Mrs H went on to claim for their costs. These included medical expenses, their relative's flight and accommodation costs, taxi costs; the costs of a police report, Mr H's clothing costs and Mr H's lost earnings. They were also very unhappy with the standard of care Mr H had received from the treating hospital and felt he'd require more surgery under the NHS in the UK.

After a delay of some weeks, AWP settled some of Mr and Mrs H's medical costs. But it didn't agree to pay for their relative's travel and accommodation costs; Mr H's lost earnings; the cost of the police reports or Mr H's damaged clothing. It paid Mr and Mrs H £50 compensation to apologise for the delays in the settlement of Mr and Mrs H's out of pocket expenses.

Mr and Mrs H were very unhappy with AWP's handling of their claim and the settlement it had paid. They were concerned that it had discriminated against them and they said that Mrs H had needed a family member to help to care for her. They asked us to look into their complaint.

Our investigator didn't think AWP had handled Mr and Mrs H's claim unreasonably and he didn't think it had treated them unfairly. He considered it had already paid them fair compensation for the delay in settling their claim.

Mr and Mrs H disagreed and so the complaint was passed to me to decide.

I asked AWP for some more information to help me decide Mr and Mrs H's complaint – and in particular, for information about what it had known about Mrs H's vulnerabilities and whether it had considered whether it could offer Mrs H any support.

AWP went on to make an offer of £500 compensation to reflect the handling of this claim. It acknowledged that Mrs H had asked whether a member of the family could fly out to support

her and whether this would be covered by the policy. But she hadn't been given a clear answer. It felt that while these costs weren't covered by the policy terms, the lack of clarity around how the policy worked would have caused Mr and Mrs H additional frustration and inconvenience.

Mr and Mrs H didn't accept AWP's offer and so I went on issue a provisional decision on 16 December 2024. In my provisional decision, I explained the reasons why I felt the fair outcome to this complaint was for AWP to pay Mr and Mrs H £500 compensation (in addition to the £50 it'd already paid), along with hospital benefit if that hadn't yet been paid. I said:

'First, I'd like to say how sorry I was to hear about what happened to Mr H abroad and the impact this has had on him and Mrs H. I don't doubt what an upsetting and worrying situation this was for them and for their family. I'd like to reassure them that while I've summarised the background to this complaint and their submissions to us, I've carefully considered all they've said and sent us.'

The relevant regulator's rules say that insurers must handle claims promptly and fairly. And that they mustn't turn down claims unreasonably. I've taken those rules into account, amongst other relevant considerations, such as industry principles and guidance, the evidence and the policy terms, to decide whether I think AWP treated Mr and Mrs H fairly.

It seems to me that there are two key issues for me to decide. Firstly, whether AWP has settled this claim fairly. And secondly, whether it handled the claim reasonably. I'll deal with each point in turn.

Did AWP settle the claim fairly?

As Mr H required hospital admission and medical treatment, I think it was reasonable and appropriate for AWP to consider the claim in line with the 'Emergency medical and associated expenses' section of the contract. I've set out below what I believe to be the relevant costs AWP will pay under this section of the policy if a policyholder is injured or becomes ill abroad:

- 'Emergency medical, surgical, hospital, ambulance and nursing fees and charges incurred outside of your home country;*
- A medical confinement benefit of £50 a day (up to a maximum of £1,000) for every complete period of 24 hours you are admitted to hospital as an in-patient or are confined to your accommodation outside of your home country, on the advice of a treating doctor;*
- Reasonable additional transport or accommodation expenses incurred, up to the standard of your original booking, if it is medically necessary for you to stay beyond your scheduled return date. This includes, with our prior authorisation, reasonable additional transport or accommodation expenses for a friend or relative to remain with you or travel to you from your home country or escort you and additional travel expenses to return you to your home if you are unable to use the return ticket.'*

The policy also sets out a list of things AWP has chosen not to cover. These include:

- 'Any expenses incurred after you have returned to your home country, other than in connection with transporting you or your remains home from abroad;*
- Any expenses incurred in the United Kingdom which are: for private treatment;*
- Any other loss, damage or additional expense following on from the event for which you are claiming, unless we provide cover under this insurance. Examples of such loss, damage or additional expense would be the cost of replacing locks after losing keys, costs incurred in preparing a claim or loss of earnings following bodily injury,*

illness or disease.'

It's clear how strongly Mr and Mrs H feel their claim hasn't been settled fairly. So I've looked closely at the policy terms and the things they've claimed for to decide whether I think AWP acted reasonably when it considered and paid their claim. I'll go on to explore this further.

I can entirely understand why Mrs H felt she needed a close relative to come and assist her while Mr H was in hospital. Mr H is Mrs H's primary carer and I appreciate why Mrs H needed support while Mr H was an in-patient and while he recovered from arm surgery. But the policy only provides cover for a friend or relative to travel and stay with an insured person if a) they're the subject of the illness or injury claim and if b) they're alone abroad. In this case, it was Mr H rather than Mrs H who had been hurt and hospitalised. And he wasn't abroad alone. So I don't think I could fairly find that the policy terms provided cover for Mrs H's relative to fly out and stay with her, even though I appreciate why this was necessary for Mrs H. And this means I don't think I could reasonably tell AWP to cover this cost.

Mr H told us that as a result of his injury, he needed to have clothing cut off, causing damage. But this isn't something the medical expenses section of the policy covers and so I don't think it would be fair for me to direct AWP to pay it.

Similarly, the policy specifically excludes cover for loss of earnings. I'm sorry to hear about the impact Mr H's injury has had on his ability to work and the family's financial situation. But AWP isn't responsible for paying Mr H compensation for his loss of earnings.

While the policy covers ambulance fees, it doesn't cover taxi costs. So while I appreciate Mr H had to travel back and forward to the hospital for follow-up care by taxi, this isn't a cost AWP is liable to pay under the terms of the policy. And nor does the policy cover any of the costs Mr and Mrs H paid for their police report – so I don't think I can fairly tell AWP to pay these costs either.

And I understand that Mr and Mrs H are unhappy because the legal expenses section of the policy didn't pay out. This wasn't part of the complaint they made to AWP though and so I don't think it would be reasonable or appropriate for me to comment on it here. They'll need to make a separate complaint to AWP about its decision to turn down their legal expenses claim if they wish to. Once AWP has had a chance to issue its final response, Mr and Mrs H may be able to complain to us about that issue alone.

What I do note though is that Mr H's discharge letter says that he was an inpatient over a two-day period. So it seems to me that he was admitted for at least one 24 hour period. It isn't at all clear that AWP has paid Mr H hospital benefit in line with the policy terms and so I currently think it should now do so if it hasn't already.

Did AWP handle the claim fairly?

It's clear that the situation abroad has caused Mr and Mrs H a great deal of upset and ongoing stress. I was sorry to hear about the impact the assault and its consequences have had on them. I was also sorry to hear that Mr and Mrs H have real concerns about the surgery carried out by the hospital and the need for Mr H to undergo further treatment in the UK. But unfortunately, situations of this nature will always cause policyholders a great deal of upset and inconvenience. And I can't fairly hold AWP responsible for any failings on the part of the treating hospital – especially since I haven't seen anything to suggest that it knew there might be an issue with the treatment Mr H had received. Its responsibility was to settle the medical expenses with the hospital in line with the policy terms.

However, AWP now accepts that it made multiple errors when it handled this claim. I've

listened carefully to the calls it provided between various members of its staff and Mrs H. During the calls, Mrs H specifically and repeatedly asked whether her family member would be covered to come and care for her. While I think AWP did indicate that this cost was unlikely to be covered, I don't think Mrs H was given a clear answer or that she was called back with the relevant information. While I think it's most likely Mrs H would always have arranged for a family member to travel and stay with her, given the circumstances, I think AWP was aware that Mrs H was in a vulnerable situation and I think it could have done more to give her accurate information in a timely way. This is likely to have lessened her distress and inconvenience. And I also think AWP could have done more to keep Mrs H regularly updated – especially as she'd told it about a language barrier with the hospital, which it appeared to manage via its case handler during the life of the claim.

And, once Mr and Mrs H submitted their claim, they had to call to chase things up over the course of a few weeks. Even when the claim was paid, AWP initially sent the payment to the wrong details. Again, I think this caused Mr and Mrs H unnecessary trouble and upset at an already difficult time for them.

So, taking all of these factors together, I don't currently think the £50 compensation AWP's already paid Mr and Mrs H for claim delays is enough to put things right. Considering Mrs H's specific vulnerabilities and the poor claims handling, I think AWP must pay a further £500 compensation to reflect the impact its errors have had on Mr and Mrs H.

I appreciate Mr and Mrs H feel AWP has discriminated against them given the problems they've experienced. It's not our role to say whether a business has acted unlawfully or not – that's a matter for the Courts. Our role is to decide what's fair and reasonable in all the circumstances. In order to decide that, however, we have to take a number of things into account including relevant law and what we consider to have been good industry practice at the time. So although it's for the Courts to say whether or not AWP has breached the Equality Act 2010, we're required to take the Equality Act 2010 into account, if it's relevant, amongst other things when deciding what is fair and reasonable in the circumstances of the complaint.

In this case, I've explained the reasons why I don't think AWP has treated Mr and Mrs H fairly and reasonably and how I think it must put things right. I hope that it helps Mr and Mrs H to know that someone impartial and independent has looked into their concerns.'

I asked both parties to provide with any further evidence or information they wanted me to consider.

AWP accepted my provisional findings.

Mr and Mrs H didn't accept my provisional decision. I've listened carefully to the call Mr H had with our investigator which outlined why he was unhappy with the outcome and I've summarised his main points:

- The compensation AWP had offered was nowhere near enough – it didn't recompense Mr and Mrs H for the costs they'd paid out;
- Due to the nature of Mr H's injury, he hadn't been able to provide the care Mrs H needed and so their relative had had to fly abroad to provide support;
- They'd believed the policy covered the costs of an interpreter and legal representation while they were abroad;
- AWP had paid the treating hospital abroad thousands of pounds for treatment it hadn't carried out, but it wouldn't pay for all of Mr and Mrs H's own costs.

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, whilst I'm very sorry to disappoint Mr and Mrs H, my final decision is the same as my provisional decision and for the same reasons. I'll now go on to consider Mr H's further points.

As I set out in my provisional decision, the policy terms explain the cover AWP provides for emergency medical expenses. It's still the case that many of the costs Mr and Mrs H have claimed for – such as the cost of a close relative travelling to them to provide care; the costs of an interpreter; and the cost of obtaining a police report – simply aren't costs AWP has chosen to cover. I appreciate how disappointing it must've been for Mr and Mrs H when they learned that their policy wouldn't reimburse them for all of the costs they incurred. But I don't think I could fairly or reasonably conclude, based on the individual circumstances of this complaint, that AWP should depart from the policy terms and pay Mr and Mrs H's full claim.

The contract does include legal expenses cover. The legal expenses section of the policy sets out the risks AWP has chosen to cover and those it's decided to exclude. It seems Mr and Mrs H are unhappy because their policy didn't provide them with legal representation when they reported the assault on Mr H to the police. This isn't a cost which is covered by the medical expenses section of the policy, and, in my experience, it would be unusual for the medical expenses part of a travel insurance policy to include such cover.

It isn't clear whether or not Mr and Mrs H *have* made a legal expenses claim and it wouldn't be appropriate for me to make a finding on whether or not such a claim would be covered. But I'd add that the legal expenses section of this policy provides cover of up to £25,000 for legal costs to pursue a civil legal action if someone causes a policyholder bodily injury or death. As such, it doesn't seem that the costs of legal representation while making a police report or providing an interpreter during the police report process would be covered.

I appreciate how unhappy Mr and Mrs H are about the care Mr H received from the treating hospital and that they believe AWP has paid the hospital for treatment it never provided. As the investigator said, it isn't our role to investigate the actions of the treating hospital. And AWP's role was to settle the claim in line with the medical expenses section of the policy. By settling the costs it was billed by the hospital, I think it has acted in line with the contract terms. I can't fairly tell AWP to pay Mr and Mrs H's remaining costs on the basis that it's paid for the hospital care.

And I understand that Mr and Mrs H don't think the compensation AWP's offered is fair, especially given it doesn't cover all of their costs. The purpose of compensation isn't to settle a claim. It's a separate award which aims to recognise the distress and inconvenience a financial business has caused a consumer as the result of an error or errors it's made. I set out in my provisional decision why I thought AWP had made clear claims handling errors. I also explained why I felt it could have done more to provide Mrs H with meaningful timely updates, given her known vulnerabilities. I considered these errors had caused Mr and Mrs H additional, unnecessary trouble and upset, on top of the inevitable upset caused by Mr H's injury. And therefore, I concluded £500 additional compensation (on top of the £50 AWP had already paid) was a fair, reasonable and proportionate award to recognise the trouble and upset I thought AWP's actions had caused Mr and Mrs H. Based on all I've seen, I remain satisfied that this award is fair and reasonable in all the circumstances.

Putting things right

I find that AWP must now:

- Pay Mr and Mrs H a further £500 compensation; and
- Calculate and pay Mr H hospital benefit for the period of his admission if it hasn't already done so.

My final decision

For the reasons I've given above and in my provisional decision, my final decision is that I uphold this complaint and I direct AWP P&C SA to put things right as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H and Mr H to accept or reject my decision before 28 January 2025.

Lisa Barham
Ombudsman