

The complaint,,

Mr and Mrs G complain that Society of Lloyd's has turned down a cancellation claim they made on a travel insurance policy.

What happened

In July 2023, Mr and Mrs G took out a travel insurance policy which was due to run until 31 May 2024. They booked a trip around the same time. They were due to travel abroad in February 2024.

Mrs G had been diagnosed with cancer in 2020 and was receiving routine monitoring scans. She'd had clear scans in May and August 2023 and so Mr and Mrs G paid the holiday balance in November 2023. Unfortunately, in late December 2023, a monitoring scan detected that Mrs G needed further treatment and her oncologist advised Mrs G to cancel the trip. So Mr and Mrs G made a cancellation claim on the policy.

Lloyd's turned down the claim. It said the policy had limited cover for pre-existing medical conditions. But it also said the contract specifically excluded cover if a policyholder wasn't fit to travel on the day of departure and there must be no known likelihood of any major variation of treatment between the date of booking the trip and the day of departure. Therefore, Lloyd's concluded Mrs G hadn't been fit to travel. It did acknowledge that it hadn't handled the claim as promptly as it should have done though and so it paid Mr and Mrs G £75 compensation.

Mr and Mrs G were unhappy with Lloyds' decision and they asked us to look into their complaint.

Our investigator thought Mr and Mrs G's complaint should be upheld. He didn't think the term Lloyd's had relied on was clearly drafted and so he didn't think it could be reasonably applied to turn down Mr and Mrs G's claim. And he was satisfied that at the time of booking the trip and taking out the insurance, Mrs G's condition appeared to be stable and there was no indication that she'd need treatment. He recommended that Lloyd's should pay Mr and Mrs G's claim, together with interest. He also felt Lloyd's should pay Mr and Mrs G an additional £150 compensation.

Lloyd's disagreed and I've summarised its responses to our investigator:

- It stated that it was common for travel insurance policies to exclude pre-existing medical conditions;
- It didn't agree that the term was unclear – it considered it clearly and explicitly relates to a policyholder not being medically fit in relation to any and all existing conditions;
- It added that the policy also stated that to be covered for pre-existing medical conditions, a policyholder must be fit to travel on the date of departure and there must be no known likelihood of any medical tests, investigations or major variation of treatment between the date of booking their trip and the date of their departure;
- It was unfortunate that Mrs G's condition had changed from when the trip had been booked, but it was clear that she wasn't in a stable condition, as there were medical

- tests with unknown outcomes which could result in a major variation of treatment;
- It felt the policy terms made it clear that if a policyholder was fit to travel, in line with the policy terms, there were many circumstances in which they could make a cancellation claim;
- It referred to a previous decision issued by this service, which it considered supported its position;
- During the policy sale, Mr G had been told about the fit to travel clause. And Lloyd's felt Mr and Mrs G were aware of the potential that they might need to make a claim when they took out the policy.

The complaint was passed to me to decide.

I issued a provisional decision on 21 January 2025 which explained the reasons why I didn't think Lloyd's had treated Mr and Mrs G fairly. I said:

'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 policy terms, the law and the available evidence, to decide whether I think Lloyd's treated Mr and Mrs G fairly.'

I've first considered the policy terms and conditions, as these form the basis of the contract between Mr and Mrs G and Lloyd's. Page five sets out some key things a policyholder needs to know about the insurance policy. This states:

'To be eligible for cover under this insurance an insured member must:

be medically fit to travel on the date of departure on your trip. This means any and all existing medical conditions an insured member has must be stable and controlled by any treatment the insured member is receiving and/or medication the insured member has been prescribed, and there must be no known likelihood of any medical tests, investigations or major variation of treatment or medication for the condition(s) between booking your trip and the date of departure, or whilst travelling. It is always advisable to consult a doctor if you have any doubts about whether any insured member is medically fit to undertake a trip.'

Page 17 of the contract says:

'You must be medically fit to travel on the date of departure on your trip in order to be eligible for cover under this insurance. This means any and all existing medical conditions you have must be stable and controlled by any treatment you are receiving and/or medication you have been prescribed, and there must be no known likelihood of any medical tests, investigations or major variation of treatment or medication for the condition(s) between booking your trip and the date of departure, or whilst travelling.'

It is always advisable to consult a doctor if you have any doubts about whether any insured member is medically fit to undertake a trip.

There is no cover under this insurance under...Section 4 - Loss of deposits, cancellation or curtailment, if you are not fit to travel as described above, and we will not pay any claims directly or indirectly resulting from any medical condition you have with which a medical practitioner has advised you not to travel, or would have done so had you sought his/her advice, and despite this you still travel.'

The 'Loss of deposits, cancellation and curtailment' section of the policy also sets out things Lloyd's won't pay for. This sets out the following term:

'there is no cover under this insurance if, on the date of departure on your trip, you are not medically fit to travel. Being fit to travel means that any and all existing medical conditions that you have must be stable and controlled by any treatment you are receiving and/or medication you have been prescribed, and there must be no known likelihood of any medical tests, investigations or major variation of treatment or medication for the condition(s) between booking your trip and the date of departure, or whilst travelling.'

It seems to me that Lloyd's is seeking to significantly limit the cover it provides for pre-existing medical conditions. It seems to suggest that it will cover people with pre-existing medical conditions, but only if a pre-existing medical condition doesn't give rise to the claim.

However, I agree with our investigator that this isn't set out in a clear and understandable way in the policy terms. I think the terms would suggest that a policyholder won't be eligible for the insurance at all if they're not medically fit to travel on the date of departure. I appreciate the terms go on to refer to existing medical conditions. But I think this clause implies that any policyholder who wasn't medically fit to travel at all for any reason on the day of their holiday departure would never be covered for a cancellation claim. This appears to be incredibly restrictive. And while I understand this incredibly restrictive limitation on cover wasn't Lloyds' intention, I find the policy terms are drafted so ambiguously that they should be interpreted in Mr and Mrs G's favour, in line with contract law principles.

I'd also add that the well-established approach of this service is to take the view that terms excluding cover for the pre-existing medical conditions of policyholders must be clearly highlighted at the time of sale and in the policy documents. As I've outlined above, I don't think the policy terms make the cover for pre-existing medical conditions at all clear. And many travel insurance policies available on the market do provide full cover for a pre-existing conditions a policyholder may have if an additional premium is paid. This policy doesn't provide such an option and so I think it ought to have made the limited cover for pre-existing conditions very clear, so policyholders could make an informed choice about cover.

And I've listened to the sales call between Mr G and the sales agent. Mr G didn't tell the agent about Mrs G's condition. But neither was he asked to. The sales agent did read out a list of things which wouldn't be covered. They said: 'Medical conditions must be stable and well-controlled.' In my view, this is suggestive that there is cover for well-controlled pre-existing medical conditions and I don't think the sales agent clearly explained how limited the cover provided by the contract actually was. And the medical evidence suggests that Mrs G's condition was stable and well-controlled at this point, so I think Mr and Mrs G would have reasonably understood that her condition would be covered by the policy they were taking out.

Lloyd's has also now relied on the following term, set out in the cancellation section of the policy, as a further reason to turn down this claim:

'What we will not pay for

any claim arising directly or indirectly from: ...

- circumstances known to you before this insurance was purchased, or at the time of booking any trip, which could reasonably have been expected to lead to cancellation or curtailment of the trip.'*

It considers that Mrs G ought to have been aware that there could be a major variation in her cancer treatment between the date of policy purchase and the date of departure. That's because it says she knew she was undergoing regular monitoring scans. I've considered the available evidence carefully.

Mrs G had a monitoring scan in May 2023, which was all clear. The medical report completed by her consultant shows she underwent radiotherapy in 2020, but there's nothing to suggest she needed further treatment between that point and the date the policy was taken out. The medical report also shows that Mrs G spoke to her oncology consultant before booking the trip and was told she was fit to travel – as the policy terms suggested she should. She underwent a further scan in August 2023 which was also clear. On the basis of the available evidence then, it seems to me that Mrs G's condition appeared stable and well-controlled. There seems to have been little to put her on notice that she might need major treatment. Instead, I think she reasonably believed the scans were simply for routine monitoring purposes. From the evidence I've seen, I don't think I could fairly or reasonably conclude that Mrs G thought it was more likely than not that her condition would deteriorate and that she'd need to cancel the trip to undergo more treatment.

Lloyd's has referred to previous decisions of this service. But our decisions aren't intended to form precedent and each case is decided on its own facts and the specific evidence. In this case, I don't think that at the time of booking the trip, or when they took out the policy, that Mr and Mrs G were aware of circumstances that could reasonably have been expected to lead to cancellation of their holiday.

Having considered everything very carefully, I'm not persuaded that the policy terms are clearly drafted and so I find they should be interpreted in Mr and Mrs G's favour. Even if I'm wrong on this point though, I don't think the limited cover for pre-existing conditions was made sufficiently clear to Mr and Mrs G when Mr G bought the policy or in the contract terms. And I don't think the medical evidence indicates that Mr and Mrs G ought to reasonably have foreseen that her stable and well-controlled condition would worsen and that they'd need to make a cancellation claim.

Overall then, I don't currently think that it was fair or reasonable for Lloyd's to turn down this claim and I agree with our investigator that the fair outcome to this complaint is for it to now accept and settle Mr and Mrs G's claim in line with the remaining policy terms and conditions, together with interest.

And I also agree with our investigator that Lloyd's handling of this claim is likely to have caused Mr and Mrs G's additional, unnecessary distress and inconvenience. I think there were avoidable claim delays, but I'm also satisfied that the decline of the claim caused Mr and Mrs G distress and inconvenience at an already difficult time for them both and when Mrs G was undergoing treatment. So I agree that a further award of £150 compensation to reflect Mr and Mrs G's trouble and upset is fair, reasonable and proportionate.'

I asked both parties to send me any further evidence or comments they wanted me to consider.

Mr and Mrs G accepted my provisional decision.

Lloyd's disagreed with my provisional findings and I'll summarise its detailed response below:

- It said it couldn't agree that the policy terms were ambiguous and therefore it didn't consider contract law principles applied in this case;
- It stated that the policy definition of medically fit to travel is repeated in the policy terms wherever it applies so there can be no confusion as to what the policy means by medically fit to travel. Given that the policy explains the circumstances that would not be covered, Lloyd's didn't think it could be fair and reasonable to say a policyholder would think if they were not medically fit to travel at all for any reason on

the day of their holiday departure they would never be covered for a cancellation claim;

- It considered it's unfair and unreasonable to suggest that the policy terms imply that any policyholder who was not medically fit to travel at all for any reason on the day of their holiday departure would never be covered for a cancellation claim because it maintains that the policy definition makes it clear that medically fit to travel refers to existing medical conditions;
- It didn't agree with my conclusions regarding the sales call. It referred to the following excerpt from the call:
 - *Sales agent - "You must be medically fit to travel and there must be no known likelihood of any medical tests, investigations or major variation of treatment or medications for the condition at the time of taking out the insurance, booking the trip, paying any further balance or instalments towards the final cost of the trip up to the date of departure or whilst travelling."*
 - *Mr G – "Yep"*
 - *Sales agent – "This means that all and any existing medical conditions you have must be stable and well controlled by any treatment you are receiving and medication that you've have been prescribed."*
 - *Mr G – "OK".*
- Lloyd's said that Mr G hadn't raised any concerns about how Mrs G's condition might affect the cover, despite having every opportunity to do so. It referred to the fact that Mr G questioned the cover available for his own asthma. It also considered that as Mr G had previously been turned down for cover as he was waiting for a biopsy, he was aware of the need for conditions to be stable and well-controlled;
- It stated it was interested to understand why I thought its sales agent should have asked whether Mrs G had any medical conditions, given they'd explained the eligibility criteria;
- Lloyd's accepted that there was no evidence that Mrs G's condition wasn't stable and well-controlled when the policy was purchased, but it didn't agree that Mr and Mrs G would reasonably have understood that her condition would be covered by the policy;
- Turning to the general exclusion I've referred to above, Lloyd's didn't agree that the question was whether Mrs G thought it was likely there'd be a change in her condition. The exclusion applied to circumstances known before the policy is purchased which could reasonably have been expected to lead to cancellation. Given the nature of Mrs G's condition, Lloyd's believed that Mr and Mrs G should have been aware that it could worsen and that they'd need to cancel the trip;
- Given Mrs G had a scan in December 2023 that showed her disease had progressed, Lloyd's said she wasn't medically fit to travel and that therefore, her claim wasn't covered;
- Lloyd's also referred to a dictionary definition of ambiguous – and questioned how I had concluded that its policy term was ambiguous;

- It maintained that its decision to turn down the claim was fair and reasonable and so it didn't agree to settle the claim or pay any compensation.

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'll now go on to consider the further submissions Lloyd's has made.

It's important I make it clear that I've read and considered Lloyds' detailed submissions in their entirety. However, I won't be commenting on each point that it's raised and nor do our rules require me to, in line with our role as a quick and informal alternative to the courts. Instead, I will focus on what I believe to be the key issues.

Clarity of the policy wording

Lloyd's strongly disagrees that its policy wording is unclear and ambiguous. It's referred to a dictionary definition of the word ambiguous to support its point.

As I've explained, I entirely accept that Lloyds' intention may be to provide cover for pre-existing medical conditions but only if those conditions don't give rise to a claim. But it remains the case that I don't agree Lloyd's has set this out in a readily clear and understandable way. The way the eligibility criteria is worded strongly implies that a policyholder will only be eligible for cover if they are medically fit to travel on the day of their departure. Necessarily, if a policyholder is making a cancellation claim due to illness, they cannot be medically fit to travel based on how I think the phrase 'fit to travel' would be reasonably understood by most people.

Therefore, I still think the policy terms would strongly suggest that a policyholder won't be eligible for the insurance at all if they're not medically fit to travel on the date of departure. Such a level of cover would be incredibly restrictive. So I'm still persuaded that the terms are drafted in an unclear and ambiguous way and that a reasonable policyholder would interpret those terms in a way Lloyd's has said it didn't intend. And I remain satisfied that the policy terms are drafted so ambiguously that they should fairly and reasonably be interpreted in Mr and Mrs G's favour, in line with contract law principles.

The policy sale and cover for pre-existing medical conditions

It remains the case too that the cover Lloyd's provides for people with pre-existing medical conditions is extremely restrictive. Many travel insurers offer cover for a policyholder's medical conditions and cover claims which arise from those conditions – albeit such cover may sometimes attract a higher premium. So I think Lloyd's needed to make this significant limitation on cover very clear, in the policy documentation and at the time of sale to give Mr and Mrs G an informed choice as to whether or not to purchase this policy.

I've already set out why I don't think the policy terms are sufficiently clear. And, as I explained in my provisional decision, I've listened to the sales call between Mr G and Lloyds' sales agent. For the avoidance of doubt, I'm satisfied that I've listened to the same call which Lloyd's is referring to and which it has now provided a second copy of. I acknowledge that the sales agent explained the eligibility terms during the call. And that Mr G made reference to his previous biopsy and his existing asthma.

But based on the totality of what the sales agent said, I don't think Mr and Mrs G would have had any reason to know that they wouldn't be covered if they needed to cancel their trip as a

result of Mrs G's condition. The sales agent mentioned that there must be no known likelihood of any medical tests, investigations or major variation of treatment or medications for the condition at the time of taking out the insurance. And that any conditions must be stable and well-controlled.

In this case, at the time of taking out the policy, it seems Mrs G was only undergoing routine monitoring for her condition. Strictly then, there was a known likelihood of her undergoing tests, which could have indicated to Mr G that there might not be cover for Mrs G's condition.

But, after Mr G acknowledged this point, as I've explained above, the sales agent said:

'This means that all and any existing medical conditions you have must be stable and well controlled by any treatment you are receiving and medication that you've have been prescribed.'

I think this statement rather undermines the first statement the sales agent made, as it indicates that medical conditions which are stable and well-controlled will be covered. In this case, the evidence shows that Mrs G's condition was stable and well-controlled by the treatment she'd been receiving and the medication she'd been prescribed. So it seems to me that it would've been entirely reasonable for Mr and Mrs G to conclude that there would be cover for Mrs G's existing condition and for any claims arising from it. It was open to Lloyd's, as the expert in the situation, to specifically ask about any existing medical conditions during the call to explain how any deterioration in those conditions could potentially affect policy cover.

The general exclusion

Lloyd's doesn't think it's relevant whether or not Mr and Mrs G could have foreseen that Mrs G's cancer would progress and she'd need to make a claim. It says that given her condition, they should have been aware that she could worsen and that they'd need to make a claim. On a strict interpretation of the contract, I appreciate Mr and Mrs G might have potentially been aware of the possibility that a long-term, stable, well-controlled condition *could* deteriorate.

But I need to make a decision based on what I consider to be fair and reasonable in all of the circumstances. I don't think I could fairly conclude, based on the evidence, that Mr and Mrs G could or should have reasonably foreseen that Mrs G's well-controlled condition would likely deteriorate and lead to the cancellation of the trip. And so it remains the case that I don't think it would be fair or reasonable for Lloyd's to rely on the general exclusion here to turn down this claim.

Summary

Lloyd's has applied a strict interpretation of the contract to conclude that this claim isn't covered. I'm not bound by the contract terms and I can depart from a strict application of the policy terms if I feel they produce an unfair result. I've explained the reasons why I think the contract should be interpreted in Mr and Mrs G's favour. I've also set out why I don't think Lloyd's made the restrictive nature of its cover for pre-existing medical conditions clear. And I've explored too why I don't think Mr and Mrs G ought reasonably to have been aware that they might need to claim when they purchased the policy.

So, for the reasons set out in my provisional decision and for the reasons I've set out above, I don't think it would be fair or reasonable to rely on a strict interpretation of the policy terms to turn down this claim. Therefore, I'm still satisfied that Lloyd's hasn't treated Mr and Mrs G fairly. And I find too that its actions caused Mr and Mrs G significant trouble and upset at an

already very difficult time for them.

Putting things right

Therefore, I direct Lloyd's to:

- Accept and settle Mr and Mrs G's claim in line with the remaining terms and conditions of the policy;
- Add interest to the settlement at an annual rate of 8% simple from one month after the date of claim until the date of settlement*; and
- Pay Mr and Mrs G further compensation of £150.+

* If Lloyd's considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr and Mrs G how much it's taken off. It should also give Mr and Mrs G a tax deduction certificate if they ask for one, so they can reclaim the tax from HM Revenue & Customs if appropriate.

+Lloyd's must pay the compensation within 28 days of the date on which we tell it Mr and Mrs G accept my final decision. If it pays later than this it must also pay interest on the compensation from the deadline date for settlement to the date of payment at 8% a year simple

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 Society of Lloyd's to put things right as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G and Mrs G to accept or reject my decision before 13 March 2025.

Lisa Barham
Ombudsman