

The complaint

Mr S has complained that Astrenska Insurance Limited trading as Collinson Insurance (“Collinson”) declined his claim for medical expenses under his travel insurance policy.

What happened

Mr S applied for a travel insurance policy online on 19 July 2024. He travelled abroad on 22 July 2024 and I understand he was treated in hospital abroad on 27 July 2024. It is the cost of this treatment that is the subject of this complaint.

Collinson declined his claim – it said that a policy wouldn’t have been offered had Mr S answered the application questions and declaration correctly.

Unhappy Mr S referred his complaint here. Our investigator didn’t recommend that it be upheld. They felt that Collinson had treated Mr S in line with the relevant legislation and fairly.

Mr S appealed. He said that he had answered the application questions accurately and in good faith. He declared a branchial cleft cyst and understood that Collinson had accepted any risk associated with it. He said that on 27 July 2024 he was admitted to hospital abroad due to an infection related to the cyst.

Our investigator considered these representations but didn’t change their view. Mr S made further comments – he didn’t agree that there had been any misrepresentation on his part.

As no agreement was reached the matter was passed to me to determine. I issued a provisional decision, saying as follows:

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

Although I’ve summarised the background to this complaint I have carefully considered everything before me. However I’ve focused on what I find are the key issues. Our rules allow me to take this approach. It simply reflects the informal nature of our service as a free alternative to the courts.

The regulator’s rules say that insurers must handle claims promptly and fairly. And that they mustn’t turn down claims unreasonably. So I’ve considered, amongst other things, the relevant law, the policy terms and the available evidence, to decide whether I think Collinson treated Mr S fairly. Having done so I’m not minded to uphold this complaint, I’ll explain why.

The relevant law in this case is The Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA). This requires consumers to take reasonable care not to make a misrepresentation when taking out a consumer insurance contract (a policy). The standard of care is that of a reasonable consumer.

And if a consumer fails to do this, the insurer has certain remedies provided the misrepresentation is - what CIDRA describes as - a qualifying misrepresentation. For it to be a qualifying misrepresentation the insurer has to show it would have offered the policy on different terms or not at all if the consumer hadn't made the misrepresentation.

CIDRA sets out a number of considerations for deciding whether the consumer failed to take reasonable care. And the remedy available to the insurer under CIDRA depends on whether the qualifying misrepresentation was deliberate or reckless, or careless.

Collinson thinks Mr S failed to take reasonable care not to make a misrepresentation when taking out the policy. He was asked:

Are you or anyone on your party currently on a waiting list for treatment or investigation?

He answered 'no' to this question –Collinson says that the answer should have been 'Yes'. This is because he had seen a Consultant, I'll call Dr M, the day before he took the policy out. Dr M wrote:

Plan: Mr S is to be discharged today as he is moving (abroad), below was our plan had he been staying in the UK.

1) Repeat core biopsy from neck lump

2) If biopsy negative for cancer, surgical removal of lump

3) If histology positive for cancer for tongue base mucosectomy and tonsillectomy

So I accept that if Mr S had been staying in the UK he may have been on the waiting list for treatment or investigation. In these circumstances Collinson has said it wouldn't have offered cover.

Mr S was moving to live abroad and because of this wasn't on any waiting list. Collinson argues that Mr S was under investigation, I think that is a fair conclusion. But I don't find that question specifically asks that – it is concerned with waiting lists. Therefore I don't find that he answered this question incorrectly.

In answer to a question regarding pre-existing medical conditions Mr S disclosed the medical condition branchial cleft cyst. He was asked 'Has this been satisfactorily surgically removed?' To which he answered 'no'. However the medical evidence shows that as of 18 July 2024, the day before Mr S took out the policy, he didn't have a definite diagnosis – there were two possible diagnoses – branchial cyst and cancer. Further investigations were required to rule cancer out or to treat it. In fact it later transpired that branchial cyst was the correct diagnosis, but this wasn't known when the policy taken out. The policy doesn't cover undiagnosed medical conditions.

Importantly, Mr S was also presented with a declaration which he was required to read and accept in order to proceed. Mr S confirmed that neither he nor anyone covered under the policy was travelling with the intention of seeking medical treatment abroad. The medical evidence doesn't show Mr S' agreement to this was correct. The report dated 18 July 2024 states:

Today Mr S is not undergoing further investigations in the UK as he is moving (abroad) in 3 days time. Information on investigations can be found at the bottom of this letter to aid in his

future health care once (abroad). We have encouraged Mr S to contact us if required for any information going forwards.

(Dr M) has suggested we email radiography in an attempt to gain the images from his scans for use (abroad). Patient was happy with this plan. He will seek further medical attention for his neck lump once (abroad). He is happy for this to be sent by email if possible.

I haven't disregarded the evidence of Dr M who confirmed that to his knowledge Mr S wasn't travelling in order to get treatment and although the removal would have taken place eventually in the UK, this would not have been planned on an emergency basis. But Mr S was emigrating overseas, and as documented in the report referred to above, treatment would have been sought abroad. Accordingly I don't find that Mr S took reasonable care when agreeing to the declaration that he wasn't travelling with the intention to seek treatment abroad.

The declaration also includes 'You and anyone named on the policy are travelling from and returning to the United Kingdom'. Mr S' evidence is that he was emigrating. However Collinson did not seek to rely on this particular eligibility requirement when declining the claim.

I fully accept that Mr S' claim is not related to cancer. Nevertheless Collinson has shown that Mr S wouldn't have been provided with a quotation and it wouldn't therefore have offered the policy if the declaration had not been accepted. So there is a qualifying misrepresentation under CIDRA. It also is clear from the Insurance Product Information Document (IPID) that undiagnosed medical conditions are not covered. Collinson has classified the misrepresentation as reckless, and given that Mr S had seen Dr M only the day before the policy was taken out I don't think that was unfair. It follows that I find that the actions Collinson took are in line with CIDRA.

I am sorry to disappoint Mr S but for the reasons given above I am not minded to find that Astrenska Insurance Limited trading as Collinson Insurance treated Mr S unfairly by declining his claim.

I invited the parties to provide any further comments or evidence for me to consider but advised that unless the information changed my mind, my final decision is likely to be along the lines of my provisional decision.

Mr S responded. He didn't accept the conclusion that he had made a qualifying misrepresentation and asked that I reconsider the matter and direct the insurer to settle the medical claim. Specifically he said:

- He fully and transparently declared his medical condition
- The insurer accepted the declared condition, yet claims it was undiagnosed
- No misrepresentation was made about his intent to seek treatment abroad
- His conduct wasn't reckless under CIDRA
- He had no access to the policy terms until after the purchase

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 am not persuaded to change my provisional decision and adopt the findings here.

With regard to first two points list above I dealt with these in my provisional decision. Mr S did declare a condition which was accepted, but the medical evidence shows that he didn't have a definite diagnosis.

I accept that Mr S wasn't travelling against medical advice, that he was fit to travel and there was no medical emergency when he took the policy out. But I don't find it was unfair for Collinson to take the medical evidence into account. This was that further investigations didn't take place in the UK as Mr S was moving abroad in three days' time. I have quoted from this evidence in my provisional decision but for completeness I'll repeat it here. The medical report continued:

(Dr M) has suggested we email radiography in an attempt to gain the images from his scans for use (abroad). Patient was happy with this plan. He will seek further medical attention for his neck lump once (abroad). He is happy for this to be sent by email if possible.

It follows that I don't find it was unfair for Collinson to conclude that Mr S failed to take reasonable care not to make a misrepresentation. In the circumstances and given the proximity of the medical consultations to the policy purchase I don't find the Collinson's classification under CIDRA is unfair. But for the avoidance of doubt the policy wouldn't have been offered if it had deemed the misrepresentation to be careless either.

Mr S has also said that he didn't have access to the policy terms until after he purchased the policy, so he had no way of knowing that the policy excluded 'undiagnosed conditions'. He says that Collinson applied this retroactively despite him having declared a named condition. I find that this argument is linked to his first point, that he declared his condition. But as indicated a condition was declared, but he didn't in fact have a definite diagnosis, so naming a definite condition was inaccurate.

I do recognise Mr S' strength of feeling and I understand why – he clearly wasn't anticipating the need for emergency treatment. But for the reasons given I don't find that Astrenska Insurance Limited trading as Collinson Insurance treated Mr S unfairly by declining his claim.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 4 September 2025.

Lindsey Woloski
Ombudsman