

The complaint

Mrs E and Mr J complain because Admiral Insurance (Gibraltar) Limited has only paid part of their travel insurance claim.

What happened

Mrs E and Mr J were insured under a travel insurance policy provided by Admiral, which covered certain pre-existing medical conditions and cost £190.18. The policy was taken out in January 2024 and was varied mid-term when Mrs E told Admiral about an x-ray.

Unfortunately, Mrs E was subsequently unable to travel on holiday for medical reasons, so she made a claim under the policy with Admiral. Admiral said Mrs E hadn't told it about certain other medical conditions (namely achilles tendinopathy, hypercholesterolaemia, obesity, depression and lower back pain) when buying the policy and, if she had, it would have charged a higher premium. Admiral said Mrs E and Mr J had only paid 34.85% of the correct premium, so it would only pay 34.85% of the claim (although I note Mrs E and Mr J say this partial settlement has yet to be paid to them).

Unhappy, Mrs E and Mr J complained to Admiral before bringing the matter to the attention of our Service.

One of our Investigators looked into what had happened and issued a number of opinions about the complaint. Ultimately, he said he didn't think it was fair or reasonable for Admiral to conclude that Mrs E should have declared lower back pain in January 2024 because she hadn't consulted a doctor for this issue until some months after the policy was taken out. So, our Investigator recommended that Admiral should pay 42.36% of the claim, calculated with reference to the additional premium Mrs E and Mr J would have paid if achilles tendinopathy, hypercholesterolaemia, obesity and depression had been declared. Admiral accepted our Investigator's opinions, but Mrs E and Mr J didn't, so the complaint has now been referred to me to make a decision as the final stage in our process.

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.

The role of the Financial Ombudsman Service is to reach an independent and impartial decision which is fair and reasonable to both parties based on the circumstances of the individual complaint. Insurers are commercial entities and are entitled to make profits, and such profits aren't relevant to the outcome of Mrs E and Mr J's complaint. And, neither general complaint uphold rates nor consumer group contact with the regulator about broader concerns in the travel insurance market have any bearing on whether I think Admiral acted unfairly or unreasonably in the particular circumstances of Mrs E and Mr J's specific case.

Industry rules set out by the regulator say insurers must handle claims fairly and shouldn't unreasonably reject a claim. I've taken these rules, as well as other relevant considerations such as industry guidance and the principles quoted by Mrs E, into account when making

this final decision. Mrs E has asked about caselaw precedent in similar cases. While the law is a relevant consideration under the rules that govern our Service, it is just one of a number of considerations under my overall remit to decide what I think is fair and reasonable in all the circumstances of a case. For the avoidance of doubt, I haven't taken into account any specific caselaw when making this final decision, nor am I bound to.

Mrs E and Mr J were asked questions about their health when they bought this policy, so the relevant law is The Consumer Insurance (Disclosure and Representations) Act 2012 ('CIDRA'). CIDRA reflects our Service's long-standing approach to complaints about non-disclosure of medical conditions in certain situations, and I'm satisfied that it's fair and reasonable to apply the principles set out under CIDRA to the circumstances of Mrs E and Mr J's complaint.

CIDRA requires consumers to take reasonable care not to make a misrepresentation when taking out an insurance policy. The standard of care required is that of a reasonable consumer. CIDRA sets out a number of considerations for deciding whether a consumer failed to take reasonable care – including how clear and specific the insurer's questions were. If a consumer fails to do this, the insurer has certain remedies available to it provided the misrepresentation is - what CIDRA describes as – a 'qualifying misrepresentation'.

For a misrepresentation to be a qualifying one, the insurer must show it would have offered the policy on different terms, or not at all, if the consumer hadn't made the misrepresentation. The remedy available to the insurer for a qualifying misrepresentation under CIDRA depends on whether the qualifying misrepresentation was deliberate or reckless, or careless and these remedies apply regardless of whether the condition being claimed for is linked to the conditions which have been misrepresented.

It's no longer in dispute that Mrs E didn't need to tell Admiral about lower back pain at the point of sale, because she didn't consult a doctor about this issue until months after the policy was purchased. However, Admiral thinks Mrs E failed to take reasonable care not to make a misrepresentation because she didn't tell it about achilles tendinopathy, hypercholesterolaemia, obesity and depression when taking out this policy in January 2024.

Mrs E and Mr J were asked the following question when buying the policy;

'Has anyone travelling been prescribed medication, received treatment or had a consultation with a doctor or hospital specialist for any medical condition in the past 2 years?'

I'm satisfied this question is clear and specific, and I don't think it's ambiguous. I've reviewed the medical information which I've been provided with. This shows Mrs E was seen by a specialist for Haglund's deformity/achilles tendinopathy in the two years before the policy was purchased. I appreciate Mrs E was discharged from the care of the specialist before the policy started, but Admiral wanted to know about and the question Admiral asked was about any medical condition which Mrs E had received treatment for or had a consultation with a doctor or hospital specialist for in the two years before taking out the policy. The same applied to a consultation Mrs E had with her GP for obesity in the summer before taking out the policy, regardless of whether any weight-loss medication was prescribed at the time. Mrs E was concerned enough to seek her doctor's advice about her weight and, if she'd declared obesity, follow-up questions would have been asked about her height and weight.

I'm not a medical expert so it's not for me to seek to interpret Mrs E's cholesterol readings myself, or to substitute expert medical opinion with my own views. The medical information which I've seen says Mrs E was prescribed medication for hypercholesterolaemia in the two years before the policy was taken out, which was something Admiral also wanted to know

about in response to the question asked. I understand Mrs E says she told the independent broker who sold the policy about the medication, and this wasn't passed on to Admiral. I'm satisfied from the information I've seen that there was no error on Admiral's part in this regard. If Mrs E thinks the broker made an error, then she'd need to complain to the broker in the first instance before bringing a separate complaint to our Service about the matter.

Mrs E and Mr J were also asked the following question when they bought this policy, which I'm also satisfied is clear and specific;

'Has anyone travelling ever been diagnosed with or treated for any of the following mental health conditions?

- *Stress*
- *Anxiety*
- *Depression...*"

I've taken into account everything Mrs E has said about the background to the now resolved depressive disorder noted on the claim form. I understand Mrs E feels there should be a period of time after which such medical conditions are no longer taken into account, but Admiral is reasonably entitled to decide what information it wants to know about before accepting the risk being proposed to it to insure. The fact that other travel insurers may ask different questions and/or disregard certain medical conditions after a particular period of time doesn't mean Admiral has acted unfairly, as long as it is treating policyholders in the same situation in the same way, which I'm satisfied it is.

There was a duty on Mrs E and Mr J to take reasonable care to accurately answer the questions Admiral asked, regardless of whether Mrs E considered any of these medical conditions to be minor and/or resolved, or whether she thought the particular medical conditions affected the risk of a claim. I'm satisfied a reasonable person would have realised from the questions asked that Admiral wanted to know about Mrs E's medical history which I've mentioned. So, based on the overall circumstances of this case, I don't think Mrs E took reasonable care when answering the questions Admiral asked when the policy was purchased.

Admiral has provided evidence to our Service which I'm satisfied demonstrates it would have charged a total premium of £449.01 if Mrs E had told it about the medical conditions I've mentioned. The evidence which Admiral has provided is commercially sensitive, so I'm unable to share it with Mrs E and Mr J. However, I wish to assure them that I've carefully considered the information, and I've asked further questions of Admiral to satisfy myself that the information is accurate. The pricing of an insurance policy isn't necessarily as straightforward as attributing individual premium loadings to individual medical conditions – the combination of different conditions can affect the price too. I have no power to interfere with how Admiral sets prices for its policies as long as it is treating policyholders in the same situation in the same way, which I'm satisfied it is.

Because I think Admiral has demonstrated that Mrs E made a 'qualifying misrepresentation' under CIDRA, I think it is entitled to apply the relevant remedy set out under the legislation. Admiral has treated Mrs E's misrepresentation as careless, which I don't think is unfair or unreasonable in the circumstances, so Admiral is entitled to reduce the total claim proportionately, calculated with reference to the additional premium it would have charged for the policy. The fact that this legislative remedy isn't set out in the policy terms and conditions doesn't mean it's unfair or unreasonable for Admiral to rely on it. And I don't think it's unfair or unreasonable for Admiral to seek to proportionately settle the entire claim rather than just Mrs E's share, as this policy was one contract. Admiral didn't agree to accept the risk which was misrepresented, so it wouldn't be fair or reasonable to now require it to

accept the full claim in return for the retrospective payment of what the additional premium would have been.

Based on the evidence which Admiral has provided, I'm satisfied that the proportionate settlement which it is responsible for here is 42.36% of Mrs E and Mr J's claim.

When offering to partially settle this claim, Admiral has also mentioned policy terms which require the policyholder to notify it of changes in their health (including the prescription of new medication) during the term of the contract. I don't intend to make any findings on this point, because I don't think Mrs E and Mr J's full claim is covered anyway, for the reasons I've already explained.

In common with most insurance policies, the cost of evidencing a claim lies with the policyholder. Mrs E and Mr J's policy says the expense of providing any medical reports is for the policyholders to bear, so I don't think there are any reasonable grounds upon which I could direct Admiral to reimburse Mrs E and Mr J for the cost of this.

I'm sorry to disappoint Mrs E and Mr J, but I won't be directing Admiral to pay the full amount of their claim.

Putting things right

Admiral Insurance (Gibraltar) Limited needs to put things right by paying 42.36% of Mrs E and Mr J's claim, together with interest at 8% simple per annum from one month after the claim was made until the date the settlement is paid¹.

My final decision

I'm upholding Mrs E and Mr J's complaint about Admiral Insurance (Gibraltar) Limited in part and I direct it to put things right in the way I've outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs E and Mr J to accept or reject my decision before 16 December 2025.

Leah Nagle
Ombudsman

¹ If Admiral Insurance (Gibraltar) Limited considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mrs E and Mr J how much it has taken off. It should also give Mrs E and Mr J a tax deduction certificate if they ask for one, so they can reclaim the tax from HM Revenue & Customs if appropriate.