

## **The complaint**

Mrs L is unhappy that Red Sands Insurance Company (Europe) Limited declined a claim made on her single trip travel insurance policy ('the policy'). She's also unhappy about the way her claim and repatriation plans back to the UK were handled.

The claim was for costs connected to Mrs L being unwell abroad, needing medical attention and delaying her return to the UK as a result.

All reference to Red Sands includes its agents. And although Mrs L is being represented in this complaint, for ease, I've referred to her throughout.

## **What happened**

The details of this complaint are well known to both parties, so I won't repeat them again here. I'll focus on giving the reasons for my decision.

## **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.

That includes Red Sands' regulatory obligation to handle insurance claims fairly and promptly. And to not unreasonably decline a claim.

I've considered all the points made by Mrs L (along with all the other evidence). However, I won't respond to each of these. I hope she understands that no discourtesy is intended by this. Instead, I've focussed on what I think are the key issues here. The rules that govern the Financial Ombudsman Service allow me to do this as we are an informal dispute resolution service. If there's something I've not mentioned, it isn't because I've overlooked it. I haven't. I'm satisfied I don't need to comment on every point to fulfil my statutory remit.

## **The decision to decline the claim**

I've also taken into account The Consumer Insurance (Disclosure and Representations) Act 2012 ('CIDRA') as I'm satisfied that it's relevant law. This requires consumers to take reasonable care not to make a misrepresentation when taking out a consumer insurance contract. The standard of care expected 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've offered the insurance 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.

I can see that Mrs L feels very strongly that Red Sands hasn't acted fairly here. I know she'll be very disappointed, but for reasons set out below, I'm satisfied Red Sands has fairly and reasonably declined her claim.

I have seen the medical declaration certificate and on the balance of probabilities – and in the absence of anything to the contrary - I think it's likely that the questions reflected on this document are the ones that Mrs L answered when applying for the policy. Relevant to this complaint, Mrs L was asked:

Have you, or anyone in your party:

1. taken prescribed medication, had any symptoms for any illness or received any medical treatment in the last 2 years.
2. attended a medical practitioner's surgery, hospital or clinic (out-patient or in-patient) in the last 2 years.

I'll refer to these as the 'medical questions'. I'm satisfied that they're reasonably clear.

It's reflected that Mrs L answered 'yes' to the medical questions and some medical conditions were disclosed. However, Red Sands says that Mrs L should've also disclosed a number of other medical conditions in response to the medical questions, including colorectal cancer and colonic polyps. It's therefore concluded that Mrs L made a misrepresentation when applying for the policy. I'm satisfied Red Sands has acted fairly and reasonably by concluding that.

Mrs L's GP notes reflect that within the two years before applying for the policy in December 2024, she'd been diagnosed with 'primary malignant neoplasm of large intestine' and also had 'a polyp of colon' and 'diverticular disease'.

When asked about this, whilst considering whether cover was in place, Mrs L's daughter replied on 12 February 2025 that:

With regards to the bowel cancer and polyp, mum had been told that both of these had been successfully treated and were therefore no longer an issue...she was referred for a colonoscopy in the summer of 2023. The colonoscopy revealed a polyp which was removed there and then. The polyp was sent for testing. Although cancerous cells were found in the mass excised, a further full body CT scan revealed no further cancers. Due to her age and the very early stage of the cancer they decided to proceed with a watch and wait approach, which meant undergoing further colonoscopies every 3-6 months to check for any return of the cancerous cells. None of these subsequent colonoscopies found any further evidence of any problems so was given the medical all clear.

In her complaint form to the Financial Ombudsman Service, Mrs L says:

After May 2024, [Mrs L] underwent further medical procedures to determine the extent of her bowel cancer. In November, she was given the good news that she had no further cancer...

Mrs L has said that she answered the medical declaration honestly as she was not awaiting any medical treatment or investigation for a diagnosed condition.

However, looking at the medical questions, I'm satisfied based on the above, that Mrs L should've (at least) declared colorectal cancer and the colon polyp. And so, I don't think I

need to make any finding on whether Mrs L ought to have disclosed other conditions Red Sands has mentioned (referred to in her GP notes) and which Mrs L says she hadn't been told about.

Overall, I'm persuaded that Red Sands has fairly and reasonably concluded that Mrs L didn't take reasonable care when answering the medical questions.

I've gone on to consider whether this amounted to a qualifying misrepresentation (i.e. that the misrepresentation mattered to Red Sands and it would've done something different had it known about her colorectal cancer and colon polyp). And I'm satisfied that it did.

Red Sands has carried out a retrospective screening. Based on the information provided, I'm satisfied that it has answered the follow up questions fairly and accurately about colorectal cancer and colon polyp. And that this resulted in an increased risk rating score and an increase to the premium. I'm persuaded that this evidence supports Red Sands' position that the policy would've been offered on different terms.

Red Sands has concluded that Mrs L's misrepresentation was deliberately or recklessly made. I'm conscious that it's for Red Sands to show this on a balance of probabilities.

CIDRA says a qualifying misrepresentation is deliberate or reckless if the consumer:

- knew that it was untrue or misleading, or did not care whether or not it was untrue or misleading, and
- knew that the matter to which the misrepresentation related was relevant to the insurer, or did not care whether or not it was relevant to the insurer (and it is to be presumed, unless the contrary is shown, that the consumer knew that a matter about which the insurer asked a clear and specific question was relevant to the insurer).

I'm satisfied that having been asked the medical questions, Mrs L was aware that the answers would be relevant to Red Sands.

And although Mrs L says that she had been given the 'all clear', she's said in her complaint form to the Financial Ombudsman Service that this had taken place the month before applying for the policy and she was undergoing regular colonoscopies up to that point.

I note that when she'd enquired about travel insurance (for a separate trip) in May 2024, she'd received a quote including declaring a colon polyp and cancer of the large intestine. She says that's because she was still receiving treatment at that stage. Whilst that might support Mrs L's belief that now she'd been given the 'all clear', she no longer had to disclose these conditions, as stated above that's not what the medical questions asked.

I'm satisfied that Red Sands has fairly concluded that by not disclosing these two conditions, she did not care whether the answer to the medical questions (and the other conditions which needed to be disclosed were untrue or misleading). And she's therefore made a reckless misrepresentation.

I've looked at the actions Red Sands can take in line with CIDRA if a qualifying misrepresentation was deliberate or reckless. It can avoid the contract of insurance, refuse all claims and doesn't need to return any premiums paid for the policy. That's what it's done here and when doing so, I think it's acted fairly and reasonably by relying on CIDRA.

I appreciate that the reason Mrs L needed medical treatment abroad was not related to colorectal cancer or the colon polyp. However, because she didn't disclose these conditions

when applying for the policy and made a qualifying reckless misrepresentation, I'm satisfied Red Sands has acted fairly and reasonably by relying on CIDRA and declining the claim.

### **The way the claim and repatriation plans were handled**

I know, initially, Red Sands said it would look to cover expenses on a proportionate basis (that is in proportion to the premium Mrs L paid for the policy compared with what she should've paid if she'd disclosed all medical conditions Red Sands said she should've). That's because if Mrs L had disclosed all medical conditions, the policy would've still been offered but at a higher premium. In the circumstances, that's a remedy available under CIDRA when there's been a careless qualifying misrepresentation rather than a reckless one.

However, once the matter was referred to the underwriter, it concluded that there was no cover available because of the nature of the misrepresentation. So, whilst I can understand that Mrs L would've been disappointed and worried about the change in position once the matter had been referred to the underwriter, ultimately, I think the decision was fair and reasonable for reasons set out above. I don't think it would be fair and reasonable to ask Red Sands to consider the claim on a proportionate basis or direct it to pay any compensation for the Red Sands' change in position.

I've also considered Red Sands' handling of Mrs L's potential repatriation to the UK before it took the decision not to cover the claim. I've seen a physiotherapy report dated 25 February 2025 (whilst Mrs L was still abroad), along with other medical evidence, which provides the history of her back pain.

It reflects that her condition was improving, she was able to walk and transfer independently during the physiotherapy session but still had pain across her lower back. It concludes:

In my opinion, the earliest she can travel comfortably with minimal pain and full mobility would be 4 weeks from now. Ideally, she should travel at the very least in premium economy seat (it would be better in business class seat) so that she can reclined [sic] a bit more to relieve her back pain and have more space to get in/out of her seat.

I don't think this is persuasive medical evidence that Mrs L wasn't fit to fly at the time. I'm not a medical expert but Red Sands' proposed plan to repatriate Mrs L to the UK in an upgraded class and a medical escort doesn't seem unreasonable, taking into account the physiotherapist's opinion.

I know Mrs L's family wanted her to remain with them abroad and were concerned about Mrs L being able to manage once she returned to the UK. A family member was also due to travel to the UK in April and they suggested that repatriation wait until then. However, I don't think that was medically necessary, particularly as Red Sands said it would arrange a medical escort.

At that stage, I appreciate that Red Sands had said it would cover the costs on a proportionate basis and the family were concerned about the cost they'd need to contribute to. However, I don't think that means that Red Sands' suggestion was unreasonable based on the available evidence from the time, and having consulted its medical director. I've looked at the reasoning provided and seems reasonable and sensible to me.

As it transpires, plans weren't finalised because once the matter was referred to the underwriter for approval, they concluded that there should be no cover in place. However, up until that point, I'm satisfied that Red Sands' repatriation proposals were fair and reasonable.

Having considered the evidence provided, I'm also satisfied that Red Sands didn't provide unreasonable information to Mrs L about what to do when make enquires with the airline provider about her original return flights, and whether these could be changed to a later date (and if so, on what terms).

In any event, at that time, Red Sands hadn't considered whether cover was in place, and it was yet to obtain Mrs L's medical history to help decide whether the claim was verified. I also think it's fair and reasonable that Red Sands requested Mrs L obtain a medical report and medical evidence around whether she was fit to fly for it to consider further. That's common industry practice when someone falls ill abroad and seeks medical assistance under their travel insurance.

### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs L to accept or reject my decision before 10 February 2026.

David Curtis-Johnson  
**Ombudsman**