

The complaint

The estate of Ms M is unhappy with the way in which AXA Insurance UK Plc handled a claim made on Ms M's travel insurance policy and medical assistance provided whilst she was abroad.

Any references to AXA include its claim handlers and medical assistance team.

What happened

Ms M had the benefit of a single-trip travel insurance policy, underwritten by AXA, which covered a holiday abroad in May 2022 ('the policy').

Whilst away with a relative, Ms M became ill and was taken to a public hospital in the country she was staying, where she was treated. Her son contacted AXA for medical assistance on 20 May 2022.

A few days later, Ms M's son raised concerns with AXA, including about the condition of the hospital and the way she was being spoken to by hospital staff. And on or around 27 May 2022, AXA arranged for Ms M to be moved to a private hospital.

The estate of Ms M says that the treating doctors had advised that Ms M was fit to fly back to the UK by air ambulance for further treatment. However, AXA's medical team didn't agree. They wanted to ensure that the oxygen levels required by Ms M reached a certain minimum threshold and check if they remained stable at that level for a few days. AXA said it would then consider repatriation by air ambulance.

On or around 9 June 2022, AXA agreed to Ms M's repatriation by air ambulance. It looked into bed availability at hospitals near where Ms M lived in the UK and air ambulance availability. However, very sadly, before Ms M could be repatriated back to the UK, her health deteriorated, and she died.

The estate of Ms M is very unhappy with the overall support and medical assistance Ms M received from AXA since it was contacted including poor communication, delays in moving Ms M to the private hospital and repatriating her back home. The estate of Ms M says those delays likely caused Ms M's death.

In its final response letter, AXA accepted that there were occasions when the level of communication fell short – including failing to respond to some of Ms M's son's emails. It also accepted that it could've dealt better with the requests to find and extend the dates of accommodation for the relative who'd travelled with Ms M and who'd stayed with her after the date on which they'd both been due to fly home due to Ms M being hospitalised. It apologised and offered the estate of Ms M £250 in compensation.

However, AXA didn't accept that it had unreasonably delayed Ms M's move to a private hospital or repatriation back to the UK.

Unhappy with AXA's response, the estate of Ms M referred a complaint to our service.

Our investigator looked into what happened and didn't recommend AXA to do anything more. The estate of Ms M disagreed so this complaint has been passed to me to consider everything afresh and decide.

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.

At the outset I acknowledge that I've summarised this complaint in far less detail than the estate of Ms M has, and in my own words. And I'm not going to respond to every single point made. No discourtesy is intended by this. Instead, I've focussed on what I think are the key issues here. The rules that govern our 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 individual point to be able to reach what I think is a fair and reasonable outcome here.

I'd also like to pass on my sincere condolences to the family of Ms M during an incredibly upsetting time.

The insurance industry regulator, the Financial Conduct Authority ('FCA'), has set out rules and guidance for insurers in the 'Insurance: Conduct of Business Sourcebook' ('ICOBS'). ICOBS says that insurers should act honestly, fairly and professionally in accordance with the best interests of their customers. It also says they should handle insurance claims promptly and fairly - and shouldn't unreasonably reject a claim.

AXA accepts that there were times when its communications could've been better, and – in particular - that on occasions it didn't respond to Ms M's son's emails. AXA also accepts that it should've handled better the requests around extending accommodation for the relative who'd travelled with Ms M and had extended the trip to stay with her. It's offered £250 compensation in recognition of this.

Ms M's son nor the relative who'd travelled with Ms M are named beneficiaries under the policy and so they aren't eligible complainants in respect of the complaint I've been asked to decide. They hadn't entered into a contract of insurance with AXA. So, I don't have any power to direct AXA to pay them any compensation for distress and inconvenience they've personally experienced because of what AXA reasonably ought to have done better.

However, I'm satisfied some of the communication failings AXA accepts occurred in this case, would've also impacted Ms M as she would've been waiting to hear from her son with any updates about the situation she was in, including when it was likely she'd be repatriated to the UK. And knowing that the relative with whom she travelled with was facing uncertainties about her accommodation is likely to have exacerbated an already very difficult situation for Ms M.

I know the estate of Ms M will be very disappointed but apart from the service failures AXA has already identified in its final response, I'm satisfied it has acted fairly and reasonably in the way in which it handled other aspects of the assistance provided. I'll explain why.

- Looking at the photos Ms M's son provided AXA at the time and the reports he'd received from the relative who'd travelled on holiday with Ms M at the time, which he communicated to AXA and are set out in emails sent to AXA and in its contact notes, I can understand why he'd requested she be moved to another medical facility. AXA isn't responsible for the standard of care Ms M was receiving or the cleanliness of the hospital. However, upon being notified of the concerns, I'm satisfied that it asked its

agents abroad to raise this with the hospital and to seek assurances about the care provided. It also looked into moving Ms M to a private hospital which I think is reasonable and in line with what I would've reasonably expected it to do in the circumstances of this case.

- It took around 3 days for AXA for the move to take place. Again, from the estate of Ms M's perspective, I understand why it thinks this was too long. However, I don't think AXA acted unreasonably by wanting to get an updated medical report from the public hospital to ensure that it was medically safe for Ms M to be moved at that time and awaiting the results of further tests that were being undertaken around that time. It also had to make enquiries with private medical facilities about availability. I'm satisfied from the contact notes provided by AXA that it was proactively trying to get further updates from the treating doctor – who, at times, was unavailable during this period. And it was reasonable to try to do this before agreeing that based on the available information there was no clinical reason why Ms M couldn't be moved to a private hospital.
- The treating doctors at the public hospital - and subsequently at the private hospital - advised that Ms M was fit to fly back to the UK for treatment by air ambulance. But the contact notes reflect that AXA's medical team didn't agree. I'm not medically trained but having considered the evidence, I think it was reasonable for AXA to consider the totality of the information available when weighing up the best course of action for Ms M including the nature of her illness and pre-existing medical condition, opinions of the treating doctors, her vital signs, saturations levels and the level of oxygen she required. I'm satisfied that it was regularly reviewing Ms M's situation against updated medical information and AXA's medical team also spoke with the treating doctors. AXA's contact notes reflect that Ms M still required high levels of oxygen and conditions affecting the lungs can be impacted by cabin pressure. AXA's medical team concluded that the level of oxygen Ms M required needed to be at a certain level for a sustained period before it was safe for her to be repatriated by air ambulance.
- From the available information, I've seen nothing to suggest that the treating doctors had advised that Ms M needed to be urgently repatriated to the UK given her condition. Although it's clear and understandable, that Ms M's family wanted her back in the UK, there are other considerations to be taken into account before repatriation can take place. I'm not a medical or aviation expert but the considerations raised - and risks identified - by AXA's medical team at the time do seem fair and reasonable and make sense to me.
- Once Ms M's need for oxygen fell to the levels AXA's medical team felt comfortable with, I'm satisfied that AXA promptly started taking steps to repatriate Ms M by air ambulance. It made enquiries about available hospital beds in hospitals close to where Ms M lived in the UK given her medical needs and air ambulance costs and availability. During this time, I don't think it was unreasonable for AXA to request updates on Ms M's health, her vital signs and saturation levels and oxygen requirements – to ensure there was no further change to her health, she remained stable and so the air ambulance company had the most up to date medical information.
- From AXA's contact notes, I'm satisfied that there were issues with air ambulance availability for that week to collect Ms M from the country she'd travelled to and repatriate her back to the UK. I'm also satisfied that AXA was in the process of

confirming a date for Ms M's repatriation when receiving notification that Ms M had been transferred back to intensive care and reliance of oxygen had significantly increased once more. So, I can understand why AXA discussed delaying possible repatriation by air ambulance until the oxygen levels she required reduced. And that's consistent with the advice of AXA medical team throughout Ms M's stay at the private hospital.

- Ms M sadly died shortly after. However, I've seen no evidence that this was due to the delays in her being repatriated back to the UK. And given my findings above, I don't think AXA's decision not to authorise repatriation by air ambulance until around 9 June 2022 - and the time taken to then arrange a date for repatriation - was unfair or due to unreasonable delays caused by AXA. Until it was agreed by AXA's medical team that Ms M was fit to fly by air ambulance, I don't think it was unreasonable for AXA to not put in steps for repatriation to take place. There are too many variables which meant that AXA wouldn't have known when the oxygen she needed would've reduced to a satisfactory level and for a sustained period. And I don't think it's reasonable for AXA to make enquires and possibly incur costs based on speculative dates – which might not have been met.
- For a period of time whilst Ms M was in hospital, her son had travelled to the country she was in to see her. I don't think his travel and accommodation expenses are covered under the policy. The terms of the policy do provide cover for a travelling companion, friend of close relative to stay with the policyholder or to travel to be with the policyholder from the UK or to escort them. But AXA had already agreed to cover, in principle, the accommodation costs for the relative who'd originally travelled with Ms M on holiday and had stayed with her rather than returning to the UK on her scheduled flight. It also agreed to cover the cost of her return flight after Ms M's death.

The estate of Ms M has also raised concerns that some expenses including certain accommodation costs of the family member who'd initially travelled on holiday with Ms M and stayed with her once she was hospitalised haven't been paid and taxi costs to and from the hospital. As our investigator explained, the estate will need to contact AXA about making a claim for those costs, so they can be considered by AXA in line with the terms of the policy in the first instance.

Putting things right

I understand from the estate of Ms M that the offer of £250 set out in the final response letter wasn't accepted so hasn't been paid by AXA.

That being the case, I'm satisfied that AXA should pay the estate of Ms M £250 compensation for distress and inconvenience it's already offered to pay.

My final decision

AXA Insurance UK Plc has already made an offer to pay £250 to the estate of Ms M to settle the complaint and I think that's fair in all the circumstances. My decision is that AXA Insurance UK Plc should pay £250 to the estate of Ms M if it hasn't already done so.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Ms M to accept or reject my decision before 14 July 2023.

David Curtis-Johnson
Ombudsman