

The complaint

Mr S complains that Great Lakes Insurance SE declined his claim against his travel insurance policy. Reference to Great Lakes includes its agents.

What happened

The details of this complaint are well known to both parties, so I won't repeat them again here in full. In summary, Mr S has an annual travel insurance policy underwritten by Great Lakes. The cover started on 1 November 2021 and was extended beyond 12 months to 21 January 2023.

Mr S was on a trip with a departure date of 10 August 2022 and an intended return date of 21 August 2022. He had a serious road accident whilst riding his 500cc motorcycle to the point of departure of the return ferry. I understand that no other vehicle was involved. Mr S required hospital treatment and was treated in a public hospital in his destination country.

Mr S' friend contacted Great Lakes on his behalf in order to make a claim for emergency medical treatment. Great Lakes declined the claim. It said that the policy doesn't cover '*...participation in the activity of motorcycle riding whereby the engine is in excess of 125cc...*'

Following his treatment at the overseas hospital, Mr S required transfer by ambulance to a hospital near his home in the UK. He borrowed money from a family member for the ambulance costs, which he subsequently repaid. Mr S says that he was discharged from hospital in the UK in October 2022.

Mr S complained about Great Lakes' decision to decline his claim. He says that the exclusion to which Great Lakes refers appears to be for motorcycling as a pastime whilst on a trip whereas riding his motorcycle was his mode of transport for the trip. Mr S says that he wouldn't have taken out the policy if he'd known there was an exclusion in relation to motorcycles. He wants Great Lakes to reimburse the cost of his transfer by ambulance to the UK hospital near his home.

Great Lakes maintained its position. It said that there's no cover following an accident in which Mr S rode a motorcycle over 125cc. Mr S didn't think that was fair and pursued his complaint.

One of our investigators looked at what had happened. He didn't think that Great Lakes had treated Mr S fairly and reasonably in declining the claim. That was because he thought that the exclusion upon which Great Lakes seeks to rely refers to recreational motorcycle use, rather than the use of a motorcycle to travel to or from a destination. The investigator didn't think that the policy excluded cover in relation to the use of a motorcycle over 125cc for the purposes of travelling on an inbound or outbound journey. He recommended that Great Lakes settle Mr S' claim, pay interest and pay compensation of £250.

Mr S accepted the investigator's recommendation, but Great Lakes didn't. It said that motorcycling as a mode of transport is inherently risky or a hazardous activity. Great Lakes said that the exclusion on which it's relied is common. It said that specialist travel insurance can be obtained from other insurers, and it assumes that Mr S had motorcycle insurance which may have covered his accident.

The investigator considered what Great Lakes said but didn't change his view. He said the risk of policyholders travelling to their destination by motorcycle isn't excluded in the policy but the use of a motorcycle over 125cc as a sport or activity is. The investigator thought that those two uses are different.

Great Lakes said that the investigator's approach suggests that it should cover all the excluded activities in the policy – such as BMX stunt riding, hiking above 2,500 metres, quad biking – if the policyholder uses it as a mode of transport. It said that the investigator's view suggests that it could exclude a claim if the insured used their motorcycle at their destination, as that wouldn't be part of travel to or from their destination.

The investigator said that motorcycling is a common form of transport and any exclusion about that should have been clear, which he didn't think it was here. He also didn't think that a policyholder would refer to the sports and activities section of the policy in order to establish whether there was cover for motorcycling as a mode of transport.

Great Lakes said that when insurers sell motorcycle insurance, they commonly offer additional cover such as helmet and leathers cover and personal accident cover, as these are gaps in the standard insurance cover. It says that it's generally understood that motorcycling is a hazardous activity and that motorcyclists may need additional cover over and above standard insurance products. Great Lakes said that if Mr S had gone to the help section of the website and typed in '*motorcycling*', the results would have shown that only motorcycling on a motorcycle under 125cc is covered as an activity. It said that Mr S didn't mention that motorcycling was his mode of transport when he bought the policy.

Great Lakes asked that an ombudsman consider the matter, so it was passed to me to decide.

My provisional decision

On 3 August 2023, I sent both parties my provisional decision in this case in which I indicated that I didn't intend to uphold the complaint. I said:

'the relevant terms and conditions

Subject to the policy terms, Mr S' policy covers emergency medical and repatriation expenses following a medical emergency whilst on a trip. The exclusion on which Great Lakes relies says as follows:

'General Exclusions – applying to all sections.

No section of this policy shall apply in respect of:

[...]

16. **You** engaging in any **sports and activities** or **winter sports** [...] where such activity is not listed as covered in this **policy**.

[...]

Sports & Activities

This policy will cover you when participating in any of the following activities on a non-professional, non-competitive basis:

Accepted activities

[...] Motor cycling as a passenger or rider* (only if wearing a helmet, the motorcycle is under 125cc and the rider holds a valid motorcycle licence, [...]

[...]

This policy specifically excludes participating in, or practising any of the following activities:

Excluded activities

[...]

Motor cycling as a passenger or rider (unless wearing a helmet, the motorcycle is under 125cc and the rider holds a valid motorcycle licence),[...]

If **you** are undertaking a sport or activity which is not listed, or are in any doubt as to whether cover will apply, please call Customer Services.'

The policy defines '**sports and activities**' as 'The activities listed under Sports and Activities on page 45'.

The insurance product information document (IPID) is a summary of cover and exclusions and includes the following:

'What is not insured?

[...]

X Certain hazardous sports and activities may not be covered under this policy. (see policy wording).

[...]

has Great lakes declined the claim unfairly?

I have considerable sympathy for Mr S. He was involved in a serious accident abroad and suffered physical and financial consequences as a result. I'm pleased to note that he is now making a good recovery. I'm sorry to disappoint Mr S, but I don't intend to uphold his complaint because I don't think that Great Lakes treated him unfairly or unreasonably in declining his claim. I say that because:

- *Insurance policies aren't designed to cover every eventuality or situation. An insurer will decide what risks it's willing to cover and set these out in the terms and conditions of the policy document. The onus is on the consumer to show that the claim falls under one of the agreed areas of cover within the policy. If the event is covered in principle but is declined on the basis of an exclusion set out in the policy the onus shifts to the insurer to show how that exclusion applies.*
- *I think that Great Lakes is entitled to rely on the exclusion I've set out above. The policy excludes claims arising from motorcycling except where the insured wears a helmet, the motorcycle is under 125cc, and the rider holds a valid motorcycle licence. Mr S' claim followed an accident on a motorbike which was 500cc. So, Mr S' claim is caught by the exclusion.*
- *I don't think that there's a valid distinction between claims where the motorcycle is being ridden for recreation or as a mode of transport. In either case, motorcycling is an activity which the policy doesn't cover, unless the insured is wearing a helmet, the motorcycle is under 125cc, and the rider holds a valid motorcycle licence.*
- *Great Lakes didn't advise Mr S about the suitability of the policy for his needs. It was nevertheless obliged to provide him with information about the policy that's clear, fair, and not misleading, so that he could decide whether the policy was right for him. Great Lakes has shown that it sent Mr S policy documents on 25 October 2021. The IPID drew Mr S' attention to the fact that the policy doesn't cover certain hazardous activities and referred him to the policy wording.*
- *It's common for travel insurance policies to exclude certain activities, including some types of motorcycling. I don't think that Great Lakes' exclusion is unusual or onerous such that it should have been specifically brought to Mr S' attention at the time of purchase of the policy. I think that Great Lakes did enough to provide Mr S with information to enable him to determine whether the policy was right for him.*
- *For the reasons I've explained, I don't think that Great Lakes treated Mr S unfairly or unreasonably in declining his claim.'*

Responses to provisional decision

Great Lakes accepted my provisional decision, but Mr S did not. He said, in summary:

- He didn't have any contact with Great Lakes during renewal of the policy, he dealt with a third party who he assumed was the insurer.
- He didn't receive the policy document on renewal and only received a two page summary from the third party.
- Great Lakes should ensure that its agent passes on relevant exclusions and enquires about the mode of transport the insured will use. He wasn't asked how he would be travelling.
- 125cc is a strange figure because the insurer could have referred to brake horse power (BHP). The motorcycle he was riding was 25BHP which is a lot less than some modern 125cc motorcycles.
- He doesn't consider his motorbike as a dangerous mode of transport and has toured extensively for over 40 years.

- He disputes that Great Lakes sent him policy documents in October 2021. The renewal document he received from a third party in 2021 only excluded cruises and only winter sports and golf were mentioned in the sporting activities section.
- He was misled into thinking that he was covered by the policy. Great Lakes and its agent provided contradictory documents.

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'm sorry that Mr S was disappointed with my provisional decision and I understand the importance of this matter to him. I've looked carefully at the points Mr S has made.

Great Lakes is the underwriter of Mr S' policy. That means it's the business who declined his claim. I'm looking at whether it did so in accordance with the policy terms, fairly and reasonably. My reference to Great Lakes includes its agents.

Mr S says he didn't receive policy documentation and only received a two page summary from a third party. Great Lakes has provided a copy of the e-mail its agent sent to Mr S' email address on 25 October 2021. That e-mail provided a link to enable Mr S to download his policy documents. The two page summary Mr S has provided in response to my provisional decision is a policy summary which includes the following:

'[...] This summary does not describe all the Terms and Conditions of your policy, so please take time to read the policy document to make sure you understand the cover it provides.[...]

I've looked again at the information Great Lakes made available to Mr S. I'm satisfied that Great Lakes provided Mr S with information about the policy that's clear, fair, and not misleading, so that he could decide whether the policy was right for him.

I don't think that Great Lakes was obliged to ask Mr S at renewal about his usual mode of transport.

It's for insurers to decide what risks they wish to cover and it's a matter for each insurer whether it refers to cc or BHP in referring to cover or exclusions for motorcycles.

I've looked again at the detail of the complaint. I remain of the view that Great Lakes was entitled to rely on the exclusion to which it referred.

I'm very sorry to disappoint Mr S, but for the reasons set out in my provisional decision and above, I don't uphold this complaint.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 28 September 2023.

Louise Povey
Ombudsman