

The complaint

Mr and Mrs J complain that AWP P&C SA has turned down a claim they made on a travel insurance policy.

What happened

Mr and Mrs J have travel insurance as a benefit of a packaged bank account.

In April 2023, Mr and Mrs J were due to travel from the UK to a country I'll call F. From there, they were scheduled to take a train to a country I'll call S two days later. They were then due to travel around S before returning to F and then back to the UK.

However, around 12 hours before Mr and Mrs J were due to begin their journey, they learned that their train from F to S had been cancelled. They say there was no availability for another train for around three days, which impacted on their further travel and accommodation arrangements. So they cancelled their trip and made a claim on their travel insurance policy.

AWP considered Mr and Mrs J's claim under the abandonment provision of the travel disruption section of the policy. And it concluded there was no cover for the circumstances of the claim. That's because the abandonment terms required a policyholder to have checked-in and have been delayed at their first international departure point in the UK for more than 12 hours. In this case, Mr and Mrs J hadn't checked-in and nor was the cancelled train departing from Mr and Mrs J's first international departure point.

Mr and Mrs J were unhappy with AWP's decision and they asked us to look into their complaint.

Our investigator thought Mr and Mrs J's complaint should be upheld. He didn't think the policy terms made it clear that a policyholder had to be delayed at their first international departure point. So he didn't think it was fair for AWP to rely on the policy terms to turn down the claim. He recommended that AWP should pay Mr and Mrs J £100 compensation and review their claim.

AWP disagreed and so the complaint was passed to me to decide.

I issued a provisional decision on 18 March 2024 which explained the reasons why I didn't think it had been fair for AWP to turn down Mr and Mrs J's claim. I said:

'The relevant 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 terms of Mr and Mrs J's policy and the circumstances of their claim, to decide whether I think AWP treated them fairly.'

First, I've carefully considered the policy terms and conditions, as these form the basis of the insurance contract. AWP considered Mr and Mrs J's claim under the travel disruption section of the policy – and in particular, the abandonment provision. This says:

*'The benefit provided below is intended to provide **compensation if you are delayed at your point of departure and is only applicable if you have travelled there and checked-in.** If you have not travelled to your departure point you will not be covered, even if you have checked-in online....*

- *Abandonment of your trip **following 12 hours of delay at your first international departure point in the UK...***

We will pay you:

Up to £5,000 for...:

- a. *The refund of your share of the cost of your trip that you cannot claim back from any other source as a result of the abandonment of your trip.'* (My emphasis added).

Our investigator didn't think the policy terms made it clear that abandonment cover only applied if a policyholder was delayed at their first international departure point in the UK. I disagree. I'm satisfied the policy is clear on this point. And there's no dispute that Mr and Mrs J weren't delayed at their first international departure point in the UK. The cancelled train was departing from their second international departure point in F and the cancellation happened before Mr and Mrs J had left their home. So on a strict interpretation of the policy terms, I don't find it was unfair for AWP to conclude that Mr and Mrs J's claim wasn't covered by the travel disruption section of the policy.

However, as Mr and Mrs J's trip was cancelled, I've gone on to think about whether there's cover for their claim under the cancellation or curtailment section of the policy.

'What is covered

We will pay you up to £5,000 (inclusive of any valid claim payable under Section 3 – Travel disruption cover and Section 11 – Winter sports (Ski pack)) for any irrecoverable unused travel and accommodation costs (including excursions and other pre-paid charges) which you have paid or are contracted to pay together with any reasonable additional travel expenses, due to any of the following necessary and unavoidable events:

- *Cancellation of the trip; **or***
- *You fully curtail (cut short) your trip before completion or partially curtail (interrupt) your trip for more than 48 hours; **or***
- *You have to make an early return home as a result of any of the following events occurring: (Numbered list of insured events immediately follows, including illness, injury, redundancy etc).'* (My emphasis added).

It seems to me that it's most likely AWP intended to limit cancellation cover to cancellation which happens because of one of a list of specific, defined events, such as illness, redundancy, serious damage at a policyholder's home etc. I say that because most travel insurance policies available on the market generally require cancellation to be down to one of a specific list of insured events in order for claims to be covered.

*But that isn't what this policy says. On a plain and ordinary interpretation of the policy as it's drafted, AWP says that it will pay a policyholder's irrecoverable unused travel and accommodation costs due to one of the listed necessary and unavoidable events: cancellation **or** full **or** partial curtailment **or** early return home. Mr and Mrs J's trip was cancelled. The contract terms as drafted imply that the numbered list of defined, insured events only apply to claims where a policyholder has had to make an early return home. So*

the policy suggests that cancellation in and of itself is covered for any eventuality, so long as it's unavoidable and necessary. There's no indication that cancellation is only covered if it happens for one of the reasons listed underneath the early return clause.

Accordingly then, on such a reading of the terms, it seems to me that Mr and Mrs J's claim falls squarely within the scope of policy cancellation cover. They've said a new train couldn't be booked for three days, which would have had a significant impact on their ability to undertake their planned trip. On the face of things, it appears to me that the cancellation was necessary and unavoidable.

Even if I accept AWP did intend to limit cancellation cover to cancellation which was down to one of the numbered list of insured events, I don't think the policy is at all clear in this regard. Where a policy term is unclear or ambiguous, it's a legal principle that it should be interpreted in favour of the party which didn't draft it. In this case, that's Mr and Mrs J.

So overall, I currently don't think it was fair or reasonable for AWP to conclude that Mr and Mrs J's claim wasn't covered by the policy terms. And therefore, I currently intend to direct it to reconsider Mr and Mrs J's claim, in line with remaining terms and conditions of the policy.

It seems too that AWP has caused Mr and Mrs J some degree of material distress and inconvenience in wrongly turning down their claim. I don't doubt this matter has caused them some unnecessary trouble and upset. So I also plan to tell AWP to pay Mr and Mrs J £100 compensation.'

I asked both parties to provide me with any further evidence or comments they wanted me to consider. Mr and Mrs J told us that they'd received my provisional decision. AWP said it had nothing more to add.

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, as neither party has provided me with any further substantive evidence or comments, I see no reason to change my provisional findings.

So my final decision is the same as my provisional decision and for the same reasons.

My final decision

For the reasons I've given above and in my provisional decision, my final decision is that I uphold this complaint.

I direct AWP P&C SA to reconsider Mr and Mrs J's claim in line with the cancellation section of the policy and in line with the remaining terms and conditions.

And I direct AWP P&C SA to pay Mr and Mrs J £100 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J and Mrs J to accept or reject my decision before 13 June 2024.

Lisa Barham
Ombudsman