



<b><u>Decision Ref:</u></b>	2018-0174
<b><u>Sector:</u></b>	Insurance
<b><u>Product / Service:</u></b>	Travel
<b><u>Conduct(s) complained of:</u></b>	Rejection of claim – psychological/mental health
<b><u>Outcome:</u></b>	Rejected

**LEGALLY BINDING DECISION OF THE FINANCIAL SERVICES AND PENSIONS OMBUDSMAN**

**Background**

The Complainants incepted a travel insurance policy with the Company on **11 January 2016**, which provided them with cover from 18 September to 25 September 2016.

**The Complainants' Case**

The Complainants were scheduled to holiday at Lake Como, Italy from 18 September to 25 September 2016. Following the First Complainant's attendance with her GP on 8 September 2016, the Complainants cancelled their holiday on 14 September 2016 and registered a claim with the Company on 15 September 2016 seeking a refund of their holiday costs. The Company, based on the information provided by the First Complainant's GP, declined the Complainants' claim as there is a general exclusion in their policy terms and conditions which specifically excludes claims arising directly or indirectly from anxiety.

The First Complainant submits *"My condition of anxiety was a direct result of suffering very bad back pains in mid-July. I have been absent from employment since early September [2016]"*. In this regard, the First Complainant sets out the Complainants' complaint, as follows:

*"I had a very painful back for which I visited the doctor, this was in July 2016. The pain at that time was excruciating so much so that I had to take time off work. I was unable to get out of bed and my legs went numb and it was a horrible ordeal. The pain continued, and gradually eased. My doctor referred me to the local hospital*

*where I had an x-ray in late July 2016. In August the doctor rang me and advised that I had arthritis in the lower back region.*

*In a concerted effort to reduce the pain I embarked upon a course of physiotherapy, always aware that our intended holiday was only a few weeks away. This course by the end of August was showing little improvement to my back which was still painful and causing me concern.*

*In early September with only little improvement to the back I became concerned that this condition could reoccur at any time. Feeling as I did I returned to the doctor who could see that I was feeling concerned about my condition and the forthcoming holiday which was now only a week or so away. The doctor could see the state I was in and prescribed some tablets to help me, however despite these we knew we had to make a decision, so therefore we cancelled the holiday, this was not taken lightly”.*

The Complainants now seek for the Company to admit their travel insurance claim, which they calculate as “Cost of holiday £6,338”, that is, “accommodation, travel, excursion costs equalling £6,250 plus airport fees of £88”.

The Complainants’ complaint is that the Company wrongly or unfairly declined the Complainants’ travel insurance claim.

### **The Provider’s Case**

Company records indicate that the Complainants incepted a travel insurance policy with the Company on 11 January 2016, which provided them with cover from 18 September to 25 September 2016 when the Complainants were scheduled to holiday at Lake Como, Italy.

The Complainants cancelled their holiday on 14 September 2016 following medical advice to do so that the First Complainant received on 8 September 2016. The Complainants registered a claim to the Company on 15 September 2016 seeking a refund of their holiday costs. The Complainants consider that the cancellation of their trip was as a result of the First Complainant’s very bad back pains, however the First Complainant’s GP, Dr S. B., completed the medical claim form on 22 September 2016, as follows:

*“Please state the precise nature of the medical condition/illness or injury that gives rise to the claim: **Anxiety precipitated by back pain***

*If more than one condition, please confirm the main condition: **Anxiety”.***

Dr S. B. also advised that he had seen the First Complainant for her back pain on 21 July 2016 and for her anxiety on 2 September 2016 and that he advised of the need to cancel this trip on 8 September 2016. The Company is therefore satisfied that it is clear from the medical evidence and the relevant dates furnished, that the reason for the cancellation of the Complainant’s holiday was due to the First Complainant’s then contemporaneous diagnosis of anxiety.

In this regard, the Company notes that the '**General exclusions applicable to all sections of the policy**' of the Complainants' Travel Insurance Policy document states at pg. 15:

*"We will not pay for claims arising directly or indirectly from: ...*

*17. Your stress, anxiety, depression or any other medical or nervous disorder".*

As a result, the Company declined the Complainants' claim by way of correspondence dated 19 October 2016 and it is satisfied that it did so in accordance with the terms and conditions of their travel insurance.

### **Decision**

During the investigation of this complaint by this Office, the Provider was requested to supply its written response to the complaint and to supply all relevant documents and information. The Provider responded in writing to the complaint and supplied a number of items in evidence. The Complainants were given the opportunity to see the Provider's response and the evidence supplied by the Provider. A full exchange of documentation and evidence took place between the parties.

In arriving at my Legally Binding Decision I have carefully considered the evidence and submissions put forward by the parties to the complaint.

Having reviewed and considered the submissions made by the parties to this complaint, I am satisfied that the submissions and evidence furnished did not disclose a conflict of fact such as would require the holding of an Oral Hearing to resolve any such conflict. I am also satisfied that the submissions and evidence furnished were sufficient to enable a Legally Binding Decision to be made in this complaint without the necessity for holding an Oral Hearing.

A Preliminary Decision was issued to the parties 15 October 2018, outlining the preliminary determination of this office in relation to the complaint. The parties were advised on that date, that certain limited submissions could then be made within a period of 15 working days, and in the absence of such submissions from either or both of the parties, within that period, a Legally Binding Decision would be issued to the parties, on the same terms as the Preliminary Decision, in order to conclude the matter.

In the absence of additional submissions from the parties, the final determination of this office is set out below.

The complaint at hand is, in essence, that the Company wrongly or unfairly declined the Complainants' travel insurance claim. In this regard, the Complainants incepted a travel insurance policy with the Company on 11 January 2016, which provided them with cover from 18 September to 25 September 2016, when they were scheduled to holiday at Lake Como, Italy.

However, following the First Complainant's attendance with her GP on 8 September 2016, the Complainants cancelled their holiday on 14 September 2016 and registered a claim to

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the Company on 15 September 2016 seeking a refund of their holiday costs. The Company, based on the information provided by the First Complainant's GP, declined the Complainants' claim as there is a general exclusion in their policy terms and conditions which specifically excludes claims arising directly or indirectly from anxiety. The First Complainant submits "My condition of anxiety was a direct result of suffering very bad back pains in mid-July. I have been absent from employment since early September [2016]".

I note from the documentation before me that the First Complainant's GP, Dr S. B., completed the medical claim form to the Company on 22 September 2016, as follows:

*"Please state the precise nature of the medical condition/illness or injury that gives rise to the claim: **Anxiety precipitated by back pain***

*If more than one condition, please confirm the main condition: **Anxiety ...***

*Did the patient ever suffer from this condition or similar conditions(s) in the past? If yes please provide the date(s): **2004/2005/2006/2008 (last episode) Anxiety 3 year history chronic low backpain**".*

I am thus satisfied that it was reasonable for the Company to conclude from the medical evidence it had received and the relevant dates which were confirmed, that the reason for the cancellation of the Complainant's holiday was due to the First Complainant's then contemporaneous diagnosis of "**Anxiety**".

Travel insurance policies, like all insurance policies, do not provide cover for every eventuality; rather the cover will be subject to the terms, conditions, endorsements and exclusions set out in the policy documentation. In this regard, the 'General exclusions applicable to all sections of the policy' of the Complainants' Travel Insurance Policy document states at pg. 15, as follows:

*"We will not pay for claims **arising directly or indirectly** from: ...*

*17. Your stress, anxiety, depression or any other medical or nervous disorder".*

**[Emphasis added]**

Whilst the First Complainant explains her anxiety, by reference to her back pain, nevertheless, the reason for the cancellation of the holiday was confirmed by her doctor to be her anxiety. The policy the Complainants held specifically excludes claims arising from anxiety and, therefore, I must conclude that the Company was entitled to decline the Complainants' claim in accordance with the terms and conditions of their travel insurance policy.

Consequently, the complaint cannot be upheld.

## **Conclusion**

My Decision pursuant to **Section 60(1)** of the **Financial Services and Pensions Ombudsman Act 2017**, is that this complaint is rejected.

**The above Decision is legally binding on the parties, subject only to an appeal to the High Court not later than 35 days after the date of notification of this Decision.**

**MARYROSE MCGOVERN  
DIRECTOR OF INVESTIGATION, ADJUDICATION  
AND LEGAL SERVICES**

7 November 2018

**Pursuant to Section 62 of the Financial Services and Pensions Ombudsman Act 2017, the Financial Services and Pensions Ombudsman will publish legally binding decisions in relation to complaints concerning financial service providers in such a manner that—**

**(a) ensures that—**

- (i) a complainant shall not be identified by name, address or otherwise,**
- (ii) a provider shall not be identified by name or address,**

**and**

**(b) ensures compliance with the Data Protection Regulation and the Data Protection Act 2018.**