An tOmbudsman Seirbhísí Airgeadais agus Pinsean
Financial Services and Pensions Ombudsman

Decision Ref:	2019-0285
Sector:	Insurance
Product / Service:	Travel
Conduct(s) complained of:	Delayed or inadequate communication Claim handling delays or issues Dissatisfaction with customer service Failure to provide correct information Maladministration
Outcome:	Rejected

LEGALLY BINDING DECISION
OF THE FINANCIAL SERVICES AND PENSIONS OMBUDSMAN

Background

The Complainant held a travel insurance policy with the Provider.

The Complainant's Case

The Complainant travelled to France in July 2018 and had cause to notify the Provider of two medical incidents during this trip. The first related to back pain that she suffered, exacerbated by her flight; the second to her fall from an electric scooter, where she sustained damage to her liver and spleen and a humerus fracture, resulting in her hospitalisation.

The Complainant sets out her complaint, as follows:

> *"During my holiday in France, I unfortunately had an accident. As a result, I was hospitalized during the period **01/08/2018 to 10/08/2018**. I spent a number of days in intensive care, and received surgery in the CHU Grenoble.* [The Provider's] *medical department was immediately notified. I quickly became aware that I wouldn't be able*

to return home [to] *Ireland as planned, and I quickly became concerned about our return flight, which was scheduled on* ***August 11th****. I made an enquiry a number of times to the* [Provider] *agent assigned to my case in order to organise all the paperwork related to the change of flight and to avoid any delay and timeline problems.*

After a few days, the agent finally told me that [the Provider] *has been exchanging a number of emails with the hospital international patients department and the information* [it] *was getting from the hospital was that I was fit to fly, therefore no flight change was needed. This was a lie. No such email was exchanged with the hospital. No doctors made any such statement. This lie was made at a time I was extremely vulnerable (both mentally and physically). If I didn't have the language to check directly with the medical team, I could have been send [sic] to take my original flight and this could have been harmful for my health. At the time of the lie, some of my organs (spleen and liver) wounded during the accident were still under assessment, but this didn't stop the* [Provider] *agent from willing to send me home.*

In their final response, [the Provider] *is referring to another case (linked to a back problem) I opened a few weeks before the accident to justify the lie. According to* [the Provider]*, it was a simple misunderstanding from the agent who messed up the two cases. A transcript of the calls will clearly erase any doubt that the agent knew exactly what she was saying. This agent was calling me almost every day, and during all the time we exchanged, she never mixed any case. This justification was clearly disappointing and is again a proof that* [the Provider] *don't really take this case seriously.*

Please note that there is also another incorrect fact listed in this final answer. All confirmations regarding the scooter used at the time of accident were fully provided by ***August 7th****. Note that verbal description was given before surgery, therefore around the* ***3rd or the 4th****, if my memory is correct. It is disappointing to see a big group such as* [the Provider] *playing with people's health and insult our intellect with silly justifications. They need to be made accountable"*.

The Complainant submits that she *"was absolutely horrified by the way I was treated by* [the Provider's] *Agent,* [Ms W.]*, who was assigned to look after my claim"*.

In addition, in her correspondence to this Office dated **20 April 2019,** the Complainant submits, among other things, as follows:

"On [**7 August 2018]***, after my conversation with the Agent, I asked my treating doctor if he had been contacted at all by* [the Provider's] *medical team since my hospital admission and he denied.*

I was contacted daily, sometimes several times a day by [the Provider]*. I understand that from their point of view, it was to follow up on my case but for me, this causes several issues:*

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- *Each call was difficult and exhausting to me. My right arm was broken and the pain extremely sore. The first 6 days I was in intensive care and my left arm was connected to several monitoring devices. Communication was challenging and you can hear me mentioning the difficulties in one of the earliest calls. Is it normal to be contacted directly regardless of* [my] *condition? Should this not be a conversation from medical team to medical team to allow rest to the patient?*

- *On the **7** **[August**], I was 4 days away from my initial flight home. The Agent told me on the phone that the* [Provider] *doctors have been liaising with my treating doctor in hospital. When I asked my doctor he said he had not been contacted by anybody to check if I was indeed fit to fly or not. I explained this to the Agent.*

- [The Provider] *insist that the* [fitness to fly] *form was sent to the hospital, but in the hospital side, nobody was able to confirm any contact from* [the Provider] *regarding my ability or not to travel …*

- *I have concerns about the fact that I had to share my personal medical information with* [the Provider's] *agents. Should medical information/report not be only discussed between hospital doctors and* [Provider] *medical team?"*

The Complainant submits, *"I clearly want* [the Provider] *to take accountability for what happened. I request €50,000"*.

The Complainant's complaint is that the Provider provided her with poor customer service in its handling of her travel insurance claim.

The Provider's Case

Provider records indicate that the Complainant travelled to France in **July 2018** and had cause to notify the Provider of two medical cases during this trip. The first case related to back pain that she suffered, exacerbated by her flight (assigned case number ********1332); the second related to her fall from an electric scooter (case number ********2504).

*Case ********1332*

The Complainant telephoned the Provider's assistance department on **19 July 2018** to advise that she was suffering from back pain since **16 July**, which had been exacerbated by her flights to France. The Agent asked the Complainant to approach a local public medical facility in the first instance, and sent an email to her in that regard. The assistance department followed up with the Complainant by email and telephone the next day. On **21 July**, the

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assistance department received and acknowledged a medical report and it later provided the Complainant with details of a physiotherapy facility on **24 July**.

The assistance department emailed the Complainant a Release of Information form on **5 August** to be completed, and having received this on **7 August**, it emailed the claims department to confirm coverage. The Provider notes that there was no further action on the part of its assistance department nor its claims department in respect of this medical issue as no claim was subsequently made against the Complainant's policy.

*Case ********2504*

The Complainant advised the Provider's assistance department on **3 August 2018** that she was hospitalised as she had fallen from an electric scooter, and it referred the matter to the medical team. Contact was also established with the hospital in France. The Complainant needed to undergo surgery due to a humerus fracture and she had also sustained damage to her liver and spleen in the fall. A Release of Information form was emailed to the [Hospital in France], with a request for it to pass this form to the Complainant for her attention. The assistance department asked the Complainant on **5 August** to provide exact details of the scooter being used at the time of the accident. The Complainant underwent surgery later that afternoon.

The Complainant had been scheduled to fly home on **11 August**. In this regard, a Fitness to Fly form was emailed to the hospital at 17:29 on **6 August** to be completed. This form would be required to provide confirmation to the airline that the Complainant had been deemed fit to fly by a medical doctor, before the airline would allow her to board the airplane.

The Complainant telephoned the assistance department at 12:55 on **7 August** to confirm the information regarding her European Health Insurance Card. The Agent enquired as to how her recovery was coming along and expressed the hope that she would be able to fly home on **11 August** as originally planned. The Complainant advised that the doctors had discussed this with her earlier that morning and thought she may not be ready to fly by this date. The Agent advised that the medical team were monitoring the situation with her doctor, but if it was the case that she could not fly on **11 August**, this could be looked at nearer to the time. The Agent asked if the Complainant had been given the Release of Information form that had been emailed to the hospital. She advised that her husband had received it and would return it. The Agent explained that the Provider required this form to be signed and returned.

During this call, the Complainant also forwarded by email to the Agent a photograph of the type of scooter she had been using. The Agent advised that she would forward this to the claims department to confirm if the model was one covered under the policy, and a follow up call was agreed. The Complainant queried who in the hospital the assistance department were dealing with, so that she could follow up with them and the Agent advised that she had emailed the Release of Information form to the international patients mailbox.

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The assistance department returned a call to the Complainant later that day at 15:18 on **(7 August)**, during which the Complainant advised that she had been upset following the conversation earlier that day, when her fitness to fly home on **11 August** had been discussed. The Complainant advised that she had contacted the international patients department in the hospital following that call and had told them that she, the Complainant, had been told by the Provider's assistance department that she would be fit to travel home on **11 August**. The Agent immediately clarified to the Complainant that this was not correct and that it was the medical team who were liaising with her treating doctor. The Complainant advised that she herself had spoken to her treating doctor and stated that the Agent had lied to her in that regard. The Agent stated that no decision had been made at that time as to whether the Complainant would be fit to fly home on **11 August**. The Complainant became emotional during this call and the Agent apologised if the Complainant had misunderstood her earlier and assured her again that no final decision as to her fitness to fly on **11 August** would be made until nearer the time.

The Agent stated once again to the Complainant that the Release of Information and the Fitness to Fly forms had been sent to the hospital to be completed by her treating doctor and that a copy had been sent to the Complainant also, and that it was only when the assistance department received these back would the final decision then be made as to her fitness to fly on **11 August**. The Complainant advised that the hospital had given her a list of the documents it had received from the assistance department and this did not include a fitness to fly form. The Agent informed and assured the Complainant that she would resend the fitness to fly form to the hospital. The Agent apologised profusely to the Complainant for any misunderstanding and stated again that no decision had been made at that time regarding when she might fly home. The Complainant stated that when she advised the hospital that she had been told she was fit to fly by the assistance department, the hospital was furious and not impressed. The Agent apologised once again and stated that it had not been her intention to upset the Complainant, and advised her what would happen next.

The Complainant stated that the Agent's words in the earlier call were *"according to the information we have been receiving, you are fit to fly"* and that she did not want anyone playing with her health. The Agent apologised again, and said she must have used wrong words and once more advised that no decision had been made as to the Complainant's fitness to fly and she outlined the procedure with the fitness to fly form. The conversation turned to discussing travel arrangements for the Complainant's family members and when she might potentially be discharged from the hospital. At the end of this telephone call, the Complainant was clearly emotional and the Agent offered a further very sincere and genuine apology for any misunderstanding and assured her that it had never been her intention to upset her.

The Complainant next contacted the assistance department on **9 August** to advise that the hospital had informed her that it had received nothing from the Provider and she was concerned, as her scheduled date to fly home was still **11 August**. The Agent checked the case notes and spoke to the original claim handler and confirmed that the documents had been sent to the hospital on **6 August** and again on **7 August**.

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The Complainant asked to be sent copies of these emails and the Agent confirmed her email address, in order to do so. In this regard, the Provider cannot comment on information given to the Complainant by the doctor or staff of the hospital in [location], however the Provider is satisfied that it emailed the hospital as and when it advised the Complainant that it did so and it provided her with copies of these emails as proof. The Provider states that it cannot comment as to why the hospital was unable to confirm receipt of these emails to the Complainant.

In addition, the Complainant also queried whether there was any update regarding cover from the underwriters, following her sending a photograph and details of the scooter to the assistance department two days earlier, on **7 August**. She expressed her annoyance at the delay in confirming cover and that she believed that the original claim handler had lied to her and she had no trust in her and that she was still upset and wanted to file a very strong complaint about that Agent. A complaint was raised by the assistance department. The Agent apologised, advised that he fully understood and would ensure that this complaint was investigated.

The Complainant was discharged from hospital on **10 August**. The assistance department received the completed fit to fly form which indicated that the Complainant was fit to fly from **24 August**, and it forwarded this to the medical team for review. The assistance department telephoned the Complainant to advise that its underwriters had confirmed that she would be covered in respect of the incident. The Agent also confirmed that her complaint would be investigated and followed up separately. A follow up call was agreed for the following Monday, **13 August**, to see how her recovery was progressing.

With regard to its confirmation of cover, the Provider notes that the incident was first reported to its assistance team on **3 August** and on **5 August** it requested information from the Complainant as to the scooter she was using at the time of the incident, which she then forwarded by email on **7 August**. This was forwarded to the claims team, who confirmed on **10 August** that the scooter type was covered by the policy and this was advised to the Complainant on that day. This short delay in confirmation of cover was due to unfamiliarity with the type of scooter on the part of the assistance team, and in part due to the bank holiday in Ireland on **6 August**. In any event, the Provider does not consider that there was an unreasonable delay in confirming the cover in the circumstances.

The assistance department were unable to reach the Complainant on **13 August** to discuss her recovery, as previously arranged.

The assistance department telephoned the Complainant on **14 August** and a discussion took place regarding return flight costs for her family, physiotherapy, medicines and a medical aid, along with some payment for her parents towards accommodation, as she, her husband and her two children were staying with them, rather than in a hotel. The Complainant advised that she would be happier to return home on **22 August**, due to her children returning to school and asked if flights could be booked for this date.

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The Agent advised that the fitness to fly form indicated that she would be fit to fly on **24 August** and this would need to be amended and signed by the doctor before a return flight on **22 August** could be arranged. The Agent confirmed arrangements for bringing the Complainant and her family to the airport in France and from the airport in Ireland to her home in the South East], and the Complainant queried whether her husband would be able to claim for toll charges. There were further discussions as to what would be covered under the terms of her travel insurance. The Complainant was advised to put everything down in the claim form that the Agent was sending to her. A further call was arranged for Friday, **17 August**, by which time the Complainant hoped to have the fitness to fly form amended by the doctor.

The assistance department telephoned the Complainant on **18 August** to enquire how her recovery was progressing. She advised that she had not been able to reach the doctor or anyone at the hospital about amending the fitness to fly form but that she would email the international patients department in the hospital that afternoon. She also advised that **24 August**, the date inserted on the fitness to fly form, was a bit too late for her for going home, but she would discuss this with her doctor. A follow up call was arranged for the following Monday, **20 August**, as it was getting very close to the date, in terms of booking flights. Instructions were also given regarding flight requirements.

The assistance department received an amended fitness to fly form on **20 August** indicating that the Complainant was fit for travel from **22 August** and this was passed to the medical department for review. The Agent advised the Complainant that only the date from which she was cleared to fly had been changed and that the doctor had not amended the date of the advice, which still showed **10 August**. The Agent queried whether the Complainant had seen a doctor since **10 August**, the date the original fitness to fly form had been signed and she advised that she had not, but that she had seen the nurse regularly.

The Agent advised the Complainant that the medical team were concerned, as the information it was getting from the hospital when it telephoned was very brief and that the Provider wanted to ensure that the Complainant was getting the correct level of care and that she was indeed, fit to travel. In seeking a properly completed fitness to fly form, the Provider's first priority was the Complainant's health, safety and well-being. The Agent pointed out to the Complainant that in addition to the facture to her humerus, she had also received trauma to her liver and spleen, which were very serious injuries, but very little emphasis seemed to be put on these by the hospital, which was of concern to the Provider's medical team. The Complainant advised that she had scans and the hospital were happy with the improvements and that was why it had let her go. The Agent confirmed that she would pass this advice to the medical team but could not guarantee that the amended fitness to fly form would be accepted and that this was purely for the Complainant's own safety, which was the Provider's priority. The Complainant noted that the email had been sent to the Provider directly from the hospital, so that it was not her that had changed the date. In this regard, she confirmed the contact details for the doctor, so that the medical team could contact him.

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The Agent contacted the Complainant later that day, **20 August**, to advise that in an effort to speed things up and to try and facilitate an earlier return home as she had requested, the medical team had tried to contact the doctor three times that afternoon but had been unable to reach him. As the medical team was not happy with the information it had, it was suggested that the Complainant might speak with one of the nurses on the Provider's medical team, to better understand directly from her, the information required, and the Complainant was happy to do this. That conversation took place immediately, after which it was confirmed that taking all things into account, and in an effort to make sure that there was as little risk as possible to the Complainant, the medical team required her to attend for a fresh medical appointment with a doctor and a new fitness to fly form to be completed. In this regard, the Agent confirmed that the Complainant could attend a local doctor, rather than travelling 2½ hours to the hospital to see the original attending doctor. The Complainant was happy with his and she was advised to bring her medical file to the appointment and explain to that doctor the purpose of the visit, that is, that her insurance company were trying to fly her home but wanted confirmation that it was completely safe to do so.

The Complainant brought up her complaint against the Agent she spoke with by telephone on **7 August** and stated that that Agent had been trying to send her home when she could not even walk and had, in her opinion, been lying to her. The Complainant advised that this was a very frustrating experience for her and that it was taking so much time to sort. The Agent acknowledged her frustrations but informed her that the procedures were all for her own welfare. The Complainant confirmed she would follow up her complaint when she got home.

The Complainant attended a local doctor on **21 August**, who completed the fitness to fly form that day, indicating that the Complainant was fit to fly on **22 August**. The medical team accepted this fitness to fly form and approved the Complainant to fly back to Ireland on or after **22 August**. The assistance department emailed the Complainant with flight options and she accepted arrangements for a 10:30 am flight on **23 August**.

The assistance department telephoned the Complainant on **25 August** to confirm that she had arrived home safely and to check if she wanted any claim forms to be sent to her. The Complainant confirmed that everything had gone smoothly and that all her family were home safe. The Agent queried when would be the best time for one of the Provider's Team Leaders to telephone to discuss her complaint and arrangements were made for this to take place on **28 August**. The Agent queried whether there were any last questions she could help with, and the Complainant advised that she was still awaiting the claim form she had previously requested. The Agent confirmed the Complainant's email address and advised that the claims department was not available to check on this as it was a Saturday, but that they would follow up and provide an update in the telephone call arranged for **28 August**.

The Team Manager in the assistance department telephoned the Complainant on **29 August** to discuss her complaint and there was a long discussion where the Complainant outlined

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the amount of time and effort required before the amended fitness to fly form had been received and accepted by the Provider.

She advised that it had been a nightmare for her and that she had been documenting everything. The Complainant referred back to the telephone calls on **7 August,** in which she alleged that she had been lied to by an Agent and asked whether these calls had been reviewed. The Team Manager advised that this matter had been escalated to her own Manager, who was now investigating it. The Complainant advised that she had not received a letter from the Provider in relation to her complaint, which she had been expecting, and again referred to her contention that she had been lied to by the Agent. The Team Manager stated that the matter had also been escalated to both the claims team in Ireland, as it had received survey feedback in relation to the matter, and to the customer relations team in Ireland, who would investigate the matter fully and respond to her in respect of same. Following its investigation of her complaint, the Provider wrote to the Complainant on **19 September 2018**.

The claims documents required to process the Complainant's travel insurance claim were received by the claims department in Ireland on **21 March 2019** and the claim was settled on **26 March 2019**, as follows:

Hospital	€150.00
Medical	€419.21
Clothes	€100.00
Trainers	€94.00
Ring	€300.00
Settlement	€1,063.21

The Complainant also sought reimbursement of €300 in respect of money she had paid her parents for accommodating her and her family, but this amount had not been paid. This payment was requested by the Complainant, as her parents had asked her to stay in their apartment and she had accepted this offer before the Provider confirmed the cover. The Provider requested evidence of this transaction, following receipt of which this amount was then agreed by the claims manager on **12 April 2019** and authorised to by paid to the Complainant on **25 April 2019**. In addition, the Complainant sought reimbursement in respect of her glasses, but these are excluded from cover under the terms of the travel insurance. She also sought reimbursement for the non-refundable, unused scoter hire under the cancellation section of the policy, but this was also not covered by the policy terms.

The Provider notes that the Complainant wrote to the Provider on **30 August 2018** seeking a transcript of her telephone calls with the Provider in relation to this matter. In this regard, the Provider received a detailed 10 page letter of complaint by email from the Complainant on **31 August 2018** wherein she requested a transcript of her calls on page 6. The Provider acknowledges that this request was overlooked in error by its Complaints Officer when reviewing this letter, such was the level of information contained therein. When this first came to the Provider's attention on **2 November 2018**, a recording of the calls were immediately obtained and sent by email to the Complainant that same afternoon and the

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Provider apologised for its oversight in not issuing these calls to her when first requested but that the request had been missed in the midst of her letter.

This was a human error and not a deliberate attempt to withhold information from the Complainant and the Provider is very sorry for the upset and frustration that this clearly caused and in acknowledgement of this, the Provider would like to offer the Complainant €500 by way of apology.

The Provider notes that the Complainant states that an Agent in its assistance department had lied to her regarding contacts between the Provider and the hospital in Grenoble, concerning her fitness to fly and the sending of relevant forms to the hospital for completion. The Provider believes that this whole issue arose due to a misunderstanding on the part of the Complainant, following a telephone call with the Agent in question at 12:55 on **7 August 2018**. The Complainant became concerned as she thought that a decision had already been made by the Provider that she would be fit to fly home on **11 August**, as originally scheduled. This was not the case at all. Having reviewed the call recordings, the Provider is satisfied that the Agent correctly advised the Complainant that a fitness to fly form had been sent to the hospital for completion and that the assistance department was awaiting the return of this in order to make a decision on when she could fly home.

As things stood, the Complainant's return flight to Ireland was on **11 August** and the Agent had no information to the contrary. The Agent advised the Complainant that the medical team were monitoring the situation with her doctor and if it was the case she could not fly on **11 August,** this would be determined nearer the time. Having listened to a recording of this call, it seems to the Provider that the Complainant mistakenly formed the opinion that the Provider was going to force her to fly home on **11 August**, which was not the case. As soon as the Agent realised that the Complainant had seemed to have formed this opinion, she clarified on numerous occasions that no decision would be made as to her fitness to fly until nearer the time and when the Provider was in receipt of the medical information in the fitness to fly form. The Agent apologised repeatedly to the Complainant if she had misunderstood this point, and at the end of the call the Complainant seemed to accept this and understood what would happen next.

The Complainant advised that she called the hospital following that conversation, and they told her that it had not received the fitness to fly form from the assistance department. The Complainant telephoned the Agent back later that day, **7 August 2018**, at 15:18 and told her of the hospital's advices to her and that she believed that the Agent had lied to her. The Agent assured the Complainant that she was not lying and that the fitness to fly and the release of information forms had been emailed to the hospital for completion on **6 and 7 August**. Copies of these emails were sent to the Complainant on **9 August 2018** when requested by her, as proof that the forms had been emailed to the hospital as she had been advised. The Provider considers that this issue arose due to a misunderstanding on the part of the Complainant and it is satisfied that there was no lie or attempt to mislead on the part of its Agent and that the Agent clarified the position several times to the Complainant on that day.

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Finally, the Provider acknowledges that there was a delay in responding to the Complainant's complaint as it was incorrectly assigned by its Agent to the claims team in France, rather than in Ireland.

The complaint was logged on **9 August 2018** and a formal acknowledgement was issued on **19 September 2018**, 12 working days later than that prescribed by the provisions of the Consumer Protection Code 2012. On review, the Provider now knows that this was due to a misunderstanding on the Agent's part, who thought that as the Complainant was a French citizen and the incident had occurred in France, that it was French complaint case. This matter has since been raised with the relevant team management to ensure there is no reoccurrence and the Provider is sorry for the frustration caused to the Complainant and the delay that resulted in responding to her complaint.

In conclusion, the Provider states that it is sincerely sorry that the Complainant was unhappy with the service that she received from its Agents. Notwithstanding the oversights in relation to the call recordings and the delay in acknowledging her complaint, which the Provider in no way wishes to minimise and sincerely regrets, it is clear that the issue that has exercised the Complainant the most is her belief that the Agent lied to her in their initial telephone conversation on **7 August 2018**. The Provider can only repeat again that no decision had been made on that date as to when the Complainant might be fit to fly home and that the Complainant somehow misunderstood the conversation and through that the Provider would be forcing her to fly home on her original date, **11 August**. All that the Provider had done on that date was email the fitness to fly form to the hospital for completion and it was awaiting its return to see what the advices were. The Provider had received no information to the contrary (orally or in writing) from anyone, so as far as the Agent was aware, the Provider was monitoring the situation, pending a response from the hospital.

In acknowledgment of its oversight in not issuing the recordings of the telephone calls between the Provider and the Complainant to the Complainant when she first requested it, the Provider would like to offer the Complainant €500 by way of apology.

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 Complainant was 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

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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 20 August 2019, 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, within the period permitted, I set out below my final determination.

The complaint at hand is that the Provider provided the Complainant with poor customer service in its handling of her travel insurance claim.

In this regard, the Complainant travelled to France in **July 2018** and fell from an electric scooter on **1 August 2018,** sustaining damage to her liver and spleen and a humerus fracture, resulting in her hospitalisation. In particular, the Complainant complains that an Agent of the Provider advised her by telephone on **7 August 2018** that she, the Agent, had been in contact with the hospital in France and that it had advised that the Complainant would be fit to fly home on **11 August 2018**, when in fact the Complainant was not declared by her doctor as fit to fly until **22 August 2018**. In this regard, the Complainant submits, among other things, as follows:

> *"After a few days, the agent finally told me that* [the Provider] *has been exchanging a number of emails with the hospital international patients department and the information* [it] *was getting from the hospital was that I was fit to fly, therefore no flight change was needed. This was a lie. No such email was exchanged with the hospital. No doctors made any such statement. This lie was made at a time I was extremely vulnerable (both mentally and physically). If I didn't have the language to check directly with the medical team, I could have been send [sic]to take my original flight and this could have been harmful for my health. At the time of the lie, some of my organs (spleen and liver) wounded during the accident were still under assessment, but this didn't stop the* [Provider] *agent from willing to send me home …*
>
> *According to* [the Provider]*, it was a simple misunderstanding from the agent who messed up the two cases. A transcript of the calls will clearly erase any doubt that the agent knew exactly what she was saying"*.

A recording of the telephone calls has been provided in evidence. I have considered the recording of the telephone call in question between the Complainant and the Provider at 12.55 pm on **7 August 2018** and note the following exchange:

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Agent: *- but hopefully at the moment you're going to be well enough to fly home on the 11th, which is, em, Saturday at the moment –*

Complainant: *No. I was talking to the doctor this morning and he confirmed that I might still be on these things –*

Agent: *Right. So, well, somebody on the medical team is monitoring with your doctor so, I know the last conversation they were hopeful but if that's not the case, it's something we can look at nearer the time.*

Having carefully reviewed and considered the content of this telephone call, I do not accept that the Agent told the Complainant that her treating doctor had advised that she would be fit to fly home on **11 August,** rather it is my opinion, having listened to the recording, that the Agent had expressed a hope to the Complainant that she would be fit to fly on **11 August**.

I note that the Complainant telephoned the Agent back some 2½ hours later as she was upset with her understanding of what had been said during the earlier call. Having considered the recording of this later telephone call between the Complainant and the Provider at 3.18 pm on **7 August 2018**, I note the following exchanges:

Agent: *So I'm sorry if there's been a misunderstanding … the final decision won't be made until nearer the time. I've sent across to you a fit to fly form –*

Complainant: *- which my husband completed and sent you a couple of minutes ago -*

Agent: *This needs to, treated, em, completed by your treating doctor and when we've received that, that is when we will make the final decision on if you'll be fit to fly …*

… No – it really wasn't my intention, em, they, what happened, we're waiting for the doctors to assess you nearer the time. I've sent the fit to fly over again to the international bureau cause they said they haven't received it and that will be completed by your treating doctor nearer your discharge or nearer your flight home because he would need to complete it to say that you're not fit to fly on the day and then he'll say we'll review it in a week, you'll be fit to fly on a certain day and then once we know that, we can make arrangements, but for the moment they, we haven't decided on that …

I've sent the fit to fly over again to the international department and until that is completed we won't be making arrangements for you to travel home …

I'm sorry. It wasn't my intention to upset you …

/Cont'd…

> *Your treating doctor has the final say. He needs to fill out the form, say yes, you're well enough to go home, you're well enough to go home need this assistance on the plane and everything like that. Until we get that document, we won't be making any arrangements for you to go anywhere …*
>
> *I'm sorry for the misunderstanding, it wasn't my intention to upset you…*
>
> *So no, we're not making any arrangements for you to fly home until we get the fit to fly certificate from your treating doctors"*.

I note that during the course of this telephone call the Agent made repeated efforts to reassure the Complainant that no decision had yet been made as to when she would be fit to fly home and that such a decision would not be made until her treating doctor has advised the Provider of this, by way of his completing and returning the fitness to fly form. In this regard, I am satisfied that the Agent repeatedly and correctly advised the Complainant during this call that no decision as to when she would be fit to travel home had been made. In addition, I note from the documentary evidence before me that the Provider had emailed the [Hospital in France] on **6 August 2018**, as the Agent had advised the Complainant it had done.

I cannot see what more the Provider's Agent could have done or said to try to help the Complainant to understand that it was the Complainant's medical team which would decide when she was fit to fly.

I cannot fault the Agent for the manner in which she dealt with the Complainant. An accusation of lying is very serious. I have been provided with no evidence that the Agent the Complainant spoke to lied or sought to deceive her in any way.

I believe it is neither fair nor reasonable that the Complainant persists in accusing the Agent of lying.

I note that in her correspondence to this Office dated **20 April 2019**, the Complainant submits, among other things, as follows:

> *"I was contacted daily, sometimes several times a day by* [the Provider]*. I understand that from their point of view, it was to follow up on my case but for me, this causes several issues:*
>
> - *Each call was difficult and exhausting to me. My right arm was broken and the pain extremely sore. The first 6 days I was in intensive care and my left arm was connected to several monitoring devices.*

/Cont'd…

> *Communication was challenging and you can hear me mentioning the difficulties in one of the earliest calls. Is it normal to be contacted directly regardless of* [my] *condition? Should this not be a conversation from medical team to medical team to allow rest to the patient?"*

In this regard, I note that it was the Complainant herself who first telephoned the Provider on **3 August 2018** at 10.25 am to notify it of her hospitalisation and that she herself made a number of telephone calls to the Provider over the following days. It would have been open to the Complainant to have nominated another person, such as her husband or her mother, to liaise with the Provider if she did not at any time feel well enough to do so herself.

Having examined the documentary evidence before me and having considered the recordings of all the telephone calls between the Provider and the Complainant, I am satisfied that the Provider appropriately handled the Complainant's travel insurance claim.

I note that the Complainant first made a complaint to the Provider by telephone on **9 August 2018** and that she then sent the Provider a complaint letter dated **30 August 2018** by email on **31 August 2018**. The Provider accepts that it did not issue the Complainant with a written acknowledgement of this complaint until **19 September 2018**, 12 working days later than that prescribed by the provisions of the Consumer Protection Code 2012. Nevertheless, I note that the Provider had telephoned the Complainant on **29 August 2018** to discuss her complaint, and thus I am satisfied that the Complainant was aware that her complaint was being examined prior to her receiving the written acknowledgement of her complaint in writing from the Provider.

I also note that in her letter of complaint, the Complainant had requested a transcript of her telephone calls with the Provider in relation to this matter. In this regard, the Provider acknowledges that this request was overlooked in error by its Complaints Officer but that when this oversight first came to the Provider's attention on **2 November 2018**, a recording of the calls were immediately obtained and sent by email to the Complainant that same afternoon.

Furthermore, having reviewed her complaint, I note that the Provider wrote to the Complainant on **19 September 2018**, as follows:

> *"With regard to our coordinator lying, this has been taken up with the Team Leader who identified and listened to the call recordings. Having listened to the call in question, there was a misunderstanding from our coordinator as she referred to you being fit to travel, but this was relating to….your back pain, rather than factoring in your other case…your fracture. I note that our coordinator did apologise immediately for the misunderstanding to you at the time.*

/Cont'd…

> *Following my assessment, I regret the misunderstanding by our coordinator but I have found no evidence that this resulted in any incorrect action being taken as our coordinator then noted the second case and apologised to you at the time for the misunderstanding. However, we should have fully taken into account both cases before making any reference to your fitness to fly"*.

Having considered a recording to the telephone call on **7 August 2018** in question, I do not consider that the Provider has set out an accurate version of that telephone call in this correspondence, and the Agent's confusion between the Complainant's two separate claims that it cited therein is not something that the Provider has since referenced in its more detailed response to the Complainant's complaint to this Office.

It would appear to me that in dealing with the Complainant's complaint initially, that not only did the Provider fail to identify the Complainant's request for a transcript of her telephone calls with the Provider in relation to this matter, but that it also failed to accurately determine what was said during the telephone call on **7 August 2018** that upset the Complainant.

It is unsatisfactory that the Provider did not fully and appropriately investigate the Complainant's complaint in the first instance. In this regard, a policyholder is entitled to expect that a complaint made to a Provider will be investigated thoroughly in order to determine the circumstances of the complaint at hand.

Whilst I am satisfied that the Provider appropriately handled the Complainant's travel insurance claim, I am not satisfied that it appropriately examined her complaint in **August/September 2018,** even though I do not uphold her complaint itself. I note that the Provider has offered the Complainant a customer service award in the amount of €500. Mindful that I do not uphold the Complainant's complaint itself, I consider this offer to be reasonable in the circumstances and note that it remains a matter for the Complainant to now advise the Provider directly whether she wishes to accept or decline its offer.

For the reasons outlined above, I do not uphold this complaint.

/Cont'd…

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.

GER DEERING
FINANCIAL SERVICES AND PENSIONS OMBUDSMAN

12 September 2019

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.