



<u>Decision Ref:</u>	2019-0438
<u>Sector:</u>	Insurance
<u>Product / Service:</u>	Travel
<u>Conduct(s) complained of:</u>	Delayed or inadequate communication
<u>Outcome:</u>	Rejected

LEGALLY BINDING DECISION OF THE FINANCIAL SERVICES AND PENSIONS OMBUDSMAN

Background

This Complaint concerns the repudiation of a claim made on an annual travel insurance policy. The policy was a 'standard policy' purchased online, and first incepted on **9 August 2014**, and renewed thereafter by the Complainants, including in **August 2017**.

The Complainants had booked to travel on **1 March 2018**. However, due to extreme weather conditions during the first week in March 2018, the airline cancelled their flight from Ireland, which, consequently, led to the Complainants also missing a 2nd flight from another European airport to their holiday destination. The Complainants submitted a claim to the Provider on **21 March 2018**. The claim form included both flights, accommodation and additional travel expenses. The Complainants are disappointed, that having referred to the terms and conditions on the policy and having an expectation that they would be reimbursed for some, if not all, of their expenses, the Provider has declined all of the submitted claim.

The Provider first denied the claim on **28 March 2018**. It stated that the 'standard' policy they had purchased did not cover the claim submitted. The Provider added that

"Travel Disruption . . . is an additional cover" which the Claimants did not opt for. Also the "Abandonment section of [their] policy wording . . . is not unfortunately relevant if the airline cancels the flight."

The Provider states in its final response letter dated **3 July 2018**,

“Travel Disruption cover is optional at all of the described cover levels and is only operative on the policy when selected, paid for and agreed for cover in writing.”

The Complainants’ contention is that the wording contained in the policy is misleading. The First Complainant goes on to say

“The reference at the bottom of page 1 to information on their website regarding travel disruption is I contend a more recent addition which was added after purchase.”

The Complainants’ Case

The Complainants maintain that the Provider failed to clearly outline exclusions to cover, in such a manner that the average person could find and understand them, when renewing their annual travel policy.

They maintain that the Provider has unfairly denied their travel insurance claim, based on the wording on its sales literature, that the Complainants believe is misleading.

The Complainants wished the Provider to pay the insurance claim of €344.87 (i.e. €644.87 less €300)

The Complainant also wishes the Provider to include a definition of cancellation in the “Definitions” since they believe that the Provider’s use of the word, varies from common usage.

The Provider’s Case

The Provider contends that the policy incepted did not cover flight cancellation, because such cover is an additional “add on” that is optional, but the Complainants did not avail of this additional cover, when putting their policy in place.

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.

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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 on 10 July 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.

Following the consideration of an additional submission from the Complainants on 11 July 2019, the final determination of this office is set out below.

The Complainants have had a policy of travel insurance with the Provider since **9 August 2014** paying a total premium of €61.88 yearly. The policy expired on **9 August 2018**. The policy the Complainants were covered under was one of a three tier system known as “essential” cover. The Provider states that the necessary “add on” required by a policyholder, in order to be covered for flight cancellation is “Travel Disruption” cover which the Complainants did not, however, avail of. The Provider submits that it was clear at point of purchase that certain “Optional Cover” upgrades were available, including details of what these provide cover for, such as “Travel Disruption”.

The Complainants assert that it is unreasonable to expect a customer to read terms and conditions of a product that is not being purchased in order to clarify the terms and conditions of that product. The Provider states that at the time of purchasing the policy it is not possible to outline every event that is both covered and excluded from the policy and it is for this reason that when the policy is purchased, it is recommended that the Purchaser reads the terms and conditions of the policy wording.

The Provider submits that the Complainants purchased the policy in 2014 and they would have had ample opportunity, at each renewal point, to review their cover to ensure that their travel insurance requirements were being met in full. The Standard policy purchased does offer cancellation and holiday abandonment for specific listed events, and the purpose of the “Travel Disruption” cover is to extend that standard cover, to include further defined events, one such listed event being the cancellation of a flight.

In January 2019, the Provider ultimately acknowledged that the argument raised by the Complainants may be worthy of further consideration during the next policy wording review, and it offered a formal settlement offer in the amount of €544.87 which would have

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been the amount payable, had “*Travel Disruption*” cover been taken out by the Complainants.

I note that the “*Cancellation*” cover held by the Complainants was indeed defined in some detail, at Page 7 of the 2017/2018 policy document. Given the confusion caused to the Complainants however, I believe that the Provider has acted very reasonably in agreeing to undertake a review of the definition of “*Cancellation*” at the next policy wording review, in order to ensure that the Complainants’ misunderstanding in this instance, may be avoided by other policyholders and so that the chances of confusion regarding what is, and what is not, covered by “*Cancellation*” will be reduced.

I also believe that the Provider’s offer to the Complainants in this instance to pay the claim on the same basis as if they had also held cover for “*Travel Disruption*” is a very reasonable step to take in the circumstances, and represents an equitable offer. Accordingly, on the basis that this offer remains open to the Complainants, I do not believe that it is necessary to uphold this complaint and accordingly, on the basis that the Complainants may accept this offer from the Provider, I consider in all the circumstances that this complaint should not be upheld.

Conclusion

For the reasons outlined above, 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**

31 July 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.