



<u>Decision Ref:</u>	2020-0021
<u>Sector:</u>	Insurance
<u>Product / Service:</u>	Travel
<u>Conduct(s) complained of:</u>	Claim handling delays or issues Maladministration
<u>Outcome:</u>	Rejected

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

Background

The Complainant, age 69, incepted a single-trip travel insurance policy with the Provider on 21 August 2017, in respect of a trip to Asia. from **22 August** to **12 September 2017**.

The Complainant's Case

The Complainant travelled to Asia on 22 August 2017 for holiday and in his letter of 10 November 2017, he sets out his complaint, *inter alia*, as follows:

“While I was on my first week of holidays I felt very tired and with no energy and I put it down to the stress of work. I went to see my doctor and he took a blood test and it confirmed his diagnosis and I was put on a monthly injection for three months. And within 48 hours I had full energy and felt relieved and was delighted with the result. This was a pre-existing illness and I handled payment directly with the hospital as I was fully aware that this was not covered. I was due to travel home to Dublin on the 12th September 2017...on the 9th of September I started to feel funny but I felt there was no problem and so I continued.

By Monday 11th of September, I had a full blown cold and I felt just terrible and decided to go to the hospital to see the doctor, she was very surprised to find what

she did and immediately grounded me for a full 10 days as I had very bad bronchial infection and also the possibility of pneumonia, I was immediately confined to bed.

I made contact with [the Provider's] emergency number [operated by M.A.S, the emergency medical assistance service engaged by the Provider]... explaining to [the Agent] what had happened and I was due to travel on the 12th September, my money was almost gone and this I made very clear to her.

Various phone calls were made during the next few days and I was becoming more and more concerned, as now I had no money left. And being confined to bed made it more difficult for me.

On Saturday the 16th September, the doctor allowed me out of the hotel for an early dinner, I felt okay but I knew I was still with a heavy bronchial infection. Following dinner I took a motorbike taxi back home to my location and as the taxi stopped to let me descend, the Motorcycle Taxi Driver lost his balance and fell with his motorcycle on top of me and I fell to the ground with the full taxi bike on top of me, together with the driver. I got such a shock but the motorbike taxi driver removed the bike as quickly as possible and...I picked myself up to discover, I had a very bad cut on my left elbow which was very sore, and as to the rest of my body everything seemed to be in order.

I immediately went to my room as I began to become quite shaky, so I went to bed at once and I tried to get some sleep.

Early morning of the 17th September, I could not suffer the pain so I took myself to the hospital, the doctor on call that day saw me immediately and he felt that I had severely pulled a back muscle, and as the pain was so bad he administered a morphine injection and kept me in the E&R to monitor my progress, a second injection had to be administered as I was in deep pain. I was finally discharged and paid the hospital THB 1500.

The following day, 18th September, I had to return to the hospital where I was seen by [Dr C.], (heart specialist) she immediately sent me for an x ray. It was discovered that I had very badly damaged my back and fractured my number 9 rib. I was immediately given more injections and I was advised to rest up for at least 10 days. She also checked my bronchial infection which was still very bad ...

I now started to have severe Headaches which lasted for the weekend and the doctor treating me on the 25th September discovered that as a result of my motorbike accident I had very badly damaged my glasses to the extent that it was now damaging my eyes (corrected lenses). I was told to change my glasses at once, but...I had no money. I contacted [M.A.S] to see if they could assist and I am still waiting with no answer, these glasses caused me major Headaches and dizziness, which I still have ...

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Monday the 25th September, I had once again a full day at the...hospital, more stress, injections, doctors, and again very high bloody pressure (170+) and the doctors were very worried about this, while I was in the...Hospital I received a call from [M.A.S]...to advise me that the insurance company was not covering the bills at the hotel...and this was final. You can imagine that the information received was like a bullet into the heart, and something that should not have been passed to me during my attendance at the hospital.

I then met with the ENT Doctor and she checked everything and advised me that she could not let me travel because of my illness, and she would review the situation after the 4th October 2017. [M.A.S] wanted me to fly on the 30th September ...

On [Tuesday] the 26th September I contacted [the airline] regarding my booking only to find out that [M.A.S]...had gone ahead and changed my booking to a new departure date, 30th September, with no discussions with me, knowing very well that the...Hospital had grounded me (unfit to fly) until after 4th October 2017...

On Wednesday 27th September I received a call from [M.A.S]...advising me that I was now travelling home on the 30th September...

They also advised me that if I did not meet their demand [to return home on the flight] my insurance would be cancelled at once. I felt their attitude was rude and inconsiderate and that they were not prepared to listen and had no consideration for the gravity of the health of the patient. This call lasted over 2 hours, during which they advised me that they were intending to send a Medical Doctor to Asia to repatriate me and that I had only 40 minutes for me to decide or otherwise the Doctor would not travel ...

On the 28th September (Thursday) I was still in great pain but I had no Hospital appointment arranged by [M.A.S], and so I remained in bed most of the day (very bad headache result of the glasses, back pain and a terrible cough)...

At 15:40H (Asia time) I received a call from [the M.A.S Doctor Escort] who advised me that he would be with me in 10 minutes, and he was not taking "NO" for an answer. He arrived to the door of my room ...

I had a very brief meeting with [the M.A.S Doctor Escort], he did check my face under my eyes, my ear area, and my neck and put a portable check on my finger. He kept talking to me over the next few minutes, and he decided I was FIT TO FLY.

His instructions were to rest up and relax as he was now in charge – and said, I was to carry out his instructions to the full and with no interference.

He was travelling with me to Dublin and to my home, and he would present me with the medical report for my GP, and if I did not accept his itinerary my insurance would be cancelled.

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He advised me to cancel the two appointments I had with the...Hospital as they were not necessary ... I returned to my bed when the doctor departed and still had a terrible headache, glasses together with the bronchial infection and ribs ...

Friday 29th of September, I received a telephone call from [M.A.S] at approximately 05:00. I was at this time fast asleep and was woken by his call. It was an unsocial...time to be in contact with somebody who was so sick, but he didn't care.

I was accused of ordering taxis and other transport items etc...

He became quite agitated as he was unable to answer any of my questions, so he quickly terminated the call ...

I was so annoyed by the call that I decided to contact [the M.A.S Doctor Escort] at his Hotel...

I had no time for messing at this stage, this whole saga had gone completely out of control.

[The M.A.S Doctor Escort] once again confirmed that he was taking me home and I was fit to fly ...

My BP during this period, 170+94+63, naturally I was most concerned ...

At 18:15H I received a call from [M.A.S], who I found to be very aggressive and rude to say the least. It was not a conversation but a demand from him to do as he said and travel to X. or I was on my own, and the insurance cover would be cancelled. If I did not obey his demand no more insurance cover ...

I checked with [airline] and the booking had been changed to 03 October...yet 1 hour before this demanding and bullying tactics had been used by [M.A.S] ...

Saturday (30 September), No telephone calls from [M.A.S], flight half confirmed, hotel not paid with quite a substantial balance ...

Monday, 02 October ... I then recalled [M.A.S] again...all she had to say that I was to obtain yet another Fit to Fly letter from my hospital stating that no Doctor nor assistant was needed ...

I doubt [M.A.S]'s suitability to act as a Medical Agent.

All [M.A.S] wanted was a Fit to Fly letter for me at any cost and to get me back to Ireland as soon as possible.

At 22.30Hrs the agent had a car to collect me and took me to X. airport, the journey time was approx.. 1H 50min. The selected transport was in no way suitable for me to travel in, and I suffered huge discomfort for the complete journey.

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When I arrived at X. airport and following my check in I contacted to the hospital to see if the transport I had taken was correct.

They were shocked to hear what I had to say, and I should have travelled in a special vehicle which is used by people with my illness, but nothing was requested by [M.A.S] for this transfer, except get the Fit to Fly letter at all costs ...

I was still in great pain, and then so bad did it get that after take-off I stood for the 6H 15Min flight to [transit airport] ...

Since my return to Ireland I have spent the past three weeks attending the doctor, being put on extra tablets and spending most of the time in bed. My blood pressure reached 219 over 95 ... I will still be seeing my doctor for quite a time to come, I strongly feel that [M.A.S]'s treatment of me had a very negative effect on my health".

The Complainant states that despite him being with "no money and very sick and in huge pain, and very very worried" during his illness in Asia in September 2017, M.A.S, the Provider's emergency medical assistance service, failed to telephone or email or make hospital appointments for him as and when promised, were unprofessional and intimidating toward him when he did talk with them by telephone, advised that his hospital and hotel bills were paid when they were not, made him attend different hospitals, arranged for a doctor escort who he understood was to travel with him to Dublin but did not, rebooked and then changed his flights to Dublin without consulting him and caused considerable confusion over the obtaining of a fit to fly medical clearance for him.

In this regard, the Complainant submits, as follows:

"From the first day I contacted [M.A.S] advising of my sickness until the day I arrived back in Ireland I never had the impression that any of the staff at [M.A.S] cared what happened to me, calling in the middle of the night, early morning and each time being unsupportive. I was left with the distinct impression that they really didn't care about my situation. Listen to your tapes. It was not what I expected of an international assistance service".

In addition, in his email to this Office dated 10 July 2019, the Complainant submits, *inter alia*, as follows:

"[M.A.S] from my first time to contact them were bullies, I had to do everything they said, they knew I was out of money and I waited waited waited for them to pay the bills in the hospitals and to pay the hotel that I was staying in...they did everything possible to put me through as much as possible even down to the hospitals in X., never once did they consider me a patient, I was thrown from left to right, always to suit [M.A.S]".

The Complainant now seeks from the Provider "a replacement holiday" and compensation.

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The Complainant's complaint is that the Provider and its Agents furnished him with poor customer service throughout his illness whilst he was abroad in Asia on holiday.

The Provider's Case

Provider records indicate that the Complainant incepted a single-trip travel insurance policy with the Provider on 21 August 2017, in respect of his scheduled holiday to Asia from 22 August to 12 September 2017. The Complainant next made contact with the Provider through M.A.S, the emergency medical assistance service engaged by the Provider, on 12 September 2017. For clarity, the Provider sets out the following timeline of events:

12 September 2017:

The Complainant telephoned M.A.S and it rang him back, as he was calling from a payphone. The Complainant advised that he had been receiving treatment since 24th August for, *inter alia*, fatigue, loss of appetite and irregular bloods. He had been due to fly out of Asia earlier that day but had not taken the flight as he was attending a hospital appointment. He was telephoning after the flight had departed to ask if his travel insurance policy could be extended, as he had rescheduled his flights for 18th September.

In this regard, the Complainant did not telephone M.A.S to make a claim, instead he wanted to see if he could extend his travel insurance policy as he was now staying longer in Asia. The Agent advised that if there was a medical emergency necessitating the change in flight, then his policy would be automatically extended but that the Provider would first require a medical report from his treating doctor confirming that the Complainant had not been fit to fly. The Complainant advised that the doctor "*didn't exactly put that on the letter*", thus there was no indication or confirmation that he had been told not to fly. The Agent advised that a medical report would be needed to confirm if his decision not to fly had been medically advised, which he agreed to send.

The Agent then took the Complainant through the process of opening a file in order to see if his circumstances may qualify for a claim. The Complainant stated that he had started to feel unwell about ten days into his trip but then advised that he first received treatment around 25th August, which was only three days into his trip. The Provider notes that the Complainant had not reported the matter until 12th September, almost three weeks after his first going to hospital and shortly after his scheduled flight had departed. The flight that the Complainant had was a flexible flight, which he appeared to have been able to change without any difficulty. In this regard, all of the information at that time indicated that the Complainant had chosen to amend his flight rather than him being compelled to do so due to medical advice. Nonetheless, the Agent logged claim xxx297 to afford the Complainant an opportunity to have the change in flight verified as being a medical necessity and thus a qualifying claim.

The Complainant advised "*I won't say ill, I got quite run down*" and that he was due to have further blood tests the following day. This initial spell of doctor/hospital visits was never

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verified as a claim and the change in trip on that date was never confirmed as being medically necessary.

In this regard, the Complainant's travel insurance cover would have been automatically extended if his initial illness was evidenced as necessitating him to stay on in Asia, but as this was unclear at that time M.A.S continued to deal with the matter in good faith.

The Provider now confirms, however, that as the Complainant failed to provide evidence indicating that his scheduled return trip on 12th September was postponed due to illness or medical necessity, his travel insurance policy ceased with effect at 23:59 on 12 September 2017.

13 September 2017:

M.A.S received a medical report (lab results) from [location] International Hospital dated 9th September, which was assessed by its medical team but the contents were unclear. M.A.S telephoned the Complainant, who advised that he had seen a doctor earlier that day and had been diagnosed with bronchitis, which he described as a "really bad cold". He was asked to forward a medical report of his earlier outpatient visit and that a M.A.S nurse would speak with him on 16th September.

The Complainant confirmed that he had declared some medical conditions at the time of purchasing his travel insurance and that he was happy for M.A.S to carry out a previous medical history check with his GP and a consent form was emailed to him to complete. In addition, the Complainant asked about cover for his accommodation costs and the Agent informed him that it would be unable to advise of this in advance of confirming cover with the Provider, but that he should keep all receipts.

16 September 2017:

M.A.S attempted to carry out a medical telephone call with the Complainant as arranged, but the call went to voicemail and a message was left.

19 September 2017:

The Complainant telephoned M.A.S to advise that after dinner with friends on 16th September, the motor bike taxi that he had used to return to his hotel fell on top of him, cracking a rib. He went to sleep that night but woke up with bad pain and attended the hospital the next day, where he was prescribed morphine and antibiotics. He also advised that he had attended his "own doctor" on 18th September, who confirmed that he still had bronchitis and she put him back on antibiotics. The Agent confirmed it would arrange a medical call.

The Complainant advised that he had a flight booked to return home for 20th September (having previously advised by phone on 12th September that he had rescheduled his flight for the 18th) and did not know if the airline would change it again. He also advised that his bankcard had expired on 31st August and he needed money for medical appointments,

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accommodation, food and taxi. In addition, he stated he was returning to the doctor later as he was in pain and would obtain a medical report. The Agent logged claim xxxx036 in respect of this new loss.

The Complainant called back later to confirm that he had seen the doctor and had been advised not to fly for seven days on medical grounds and reiterated that he was running out of money. The Agent confirmed that it would need the newest medical information available and after confirming the email address to send this to, the Complainant advised that he would ask the hospital to email same. It was understood that the Complainant was low on funds and credit but it had been explained to him that under the terms of his travel insurance policy a medical report was required to confirm the circumstances, in order to be able to issue a guarantee of payment to the hospital.

20 September 2017:

The Complainant telephoned M.A.S requesting a call back, which it made right away, and he asked if his medical report had been received from [location] International Hospital. This was then found by the Agent with some difficulty as there were no patient details in the email subject line. The Agent advised that the medical report would be reviewed by the medical team as soon as possible. It is noted that the Medical Report from [location] International Hospital dated 20 September 2017 stated, as follows:

***“Diagnosis:** - Accident with fracture 9th right rib – Bronchitis with bronchospasm ...*

***Recommendation:** Due to severe pain and cough and short of breath with exertion, he should not fly now but will be fit to fly after 1 week. Please consider business class seat for patient also...He still has bronchospasm and when he coughs, he as intolerable rib pain...In my opinion as a treating doctor who see the patient, he should have symptoms stabilized before he can fly. He should be able to fly on 25th September 2017”.*

The Complainant reiterated that he had no money left and could not afford his hotel or medical costs. The Agent advised that as it now had the most recent medical report, it should hopefully be able to assist with these costs.

The Complainant explained that though his initial return date had been 12th September, his flight was originally left as an open return, so he could decide as and when to go home. He then advised that he was thinking of asking the airline to book his flight for later in the day. The Agent strongly advised the Complainant against doing so, allowing it instead to confirm his fitness to fly, so that it could then assist with his flights. M.A.S contacted its travel agent to confirm the status of the flight booked and it confirmed that the airline would simply want a fit to fly certificate and the cost of a revalidation, as opposed to a new ticket.

During this call, the Complainant repeatedly complained of how much pain he was in and the Agent encouraged him to attend the hospital to seek pain relief, but he was reluctant to do so as there were outstanding medical expenses. The Agent reassured the Complainant that hospitals have a duty of care in cases of an emergency and therefore should help him, but he maintained that this would not happen. The Agent advised that as it now had his medical reports, it could look into confirming cover for his claim relating to his broken ribs

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but not his bronchitis, as the GP check was still outstanding. The Complainant asked for the consent form to be resent, which was done, and this was signed and returned and sent onwards to his GP, Dr P. in Ireland (for diagnosis of bronchitis and hypertension) at 11:08. As he was advising that the hospital was refusing to treat him and in view of the pending GP check, it was confirmed that the Complainant could proceed with further treatment costs under the terms of a signed disclaimer. M.A.S obtained a signed indemnity that allowed it to engage a local agent (the only way the hospital would accept payment) to place a guarantee of payment with the hospital. In addition, M.A.S received a new medical report, but this contained no new information and a medical call was scheduled for the following day.

21 September 2017:

M.A.S telephoned [location] International Hospital, which confirmed that the Complainant could arrive at any time for x-ray and review. M.A.S then called the Complainant to advise that it had placed a guarantee of payment with the hospital so he could attend for further review and did not require an appointment to do so. As he disputed this, the Agent agreed to try to make an appointment for him. The Complainant requested during this call that M.A.S send him £1,500 via Western Union, but the Agent advised that there was no provision for this under the terms of his policy.

M.A.S asked its local agent to make a hospital appointment. It then emailed the Complainant to advise that it was arranging an appointment for him for later that day and that its medical team would then need to review the medical information to determine whether he was fit to fly. M.A.S later telephoned the Complainant to advise that an appointment had been confirmed for 13:00 but he stated that it needed to be after 14:00 as he was having a massage. M.A.S agreed to reschedule, however the Complainant then went to [location] International Hospital before it had confirmed any further appointment time and he telephoned to advise that the hospital would not let him leave. M.A.S contacted its local agent who then called the hospital and placed a further guarantee of payment. M.A.S telephoned the Complainant at the hospital to confirm that all medical visits had now been guaranteed. The Agent asked if the Complainant required transportation back to his hotel, but he declined as he wanted to walk. M.A.S then received a very brief medical update from [location] International Hospital advising that the Complainant was not fit to fly.

A medical call with the M.A.S nurse was carried out, throughout which the Complainant refused to discuss his previous medical history and referred M.A.S to his GP. The Agent advised that it had not yet received any information from his GP, other than a letter signed by Dr S. dated 1 August 2017 stating, *"This is to certify that I have examined [the Complainant] and in my opinion [he] is fit to fly to Asia"*. A senior nurse from M.A.S., who is also Head of Operations, reviewed the case and recommended that in order to ascertain his fitness to fly, the Complainant should be seen in X. Hospital for further review as the medical information received to date from [location] International Hospital had not been adequate. M.A.S telephoned the Complainant to update him on the medical situation and advised that its advice was for him to attend at X. Hospital for further review. The Agent advised that cover was currently under a disclaimer, so it would pay for this visit and transport. The Complainant again requested that M.A.S send him money but the Agent advised that it

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would not be doing so. M.A.S contacted the X. Hospital directly asking for an appointment to be arranged as soon as possible for the Complainant and that once this was confirmed, it would send a guarantee of payment.

22 September 2017:

The Complainant telephoned M.A.S to ask if an appointment had been confirmed. The Agent had to follow-up with the hospital and the earliest appointment available was before 09:00 on 27th September (or before 10:00 on 22nd, which was not feasible as the Complainant was a distance away and would not have been on time for any appointment before 10:00). The Complainant then telephoned and requested a call back. During the call back, the Complainant advised that he was in pain and did not understand why M.A.S was not giving him any food. The Agent agreed to arrange an appointment as soon as possible for pain relief, which it was able to arrange and which it guaranteed payment in respect of.

M.A.S emailed the Complainant advising him to present at the patient registration desk on the first floor at X. Hospital, as they were expecting him and had been advised he would need pain relief, and it attached a copy of the hospital guarantee of payment so that he had solid confirmation that this had been sent in advance. M.A.S also telephoned the Complainant to confirm this arrangement and he stated he would arrange his own transport to the hospital. At this stage the Provider had agreed to cover the Complainant's food costs directly with the hotel and advised him accordingly.

M.A.S then received medical reports directly from X. Hospital and these were reviewed by its medical team. It is noted that the Medical Certificate from X. Hospital dated 22 September 2017 stated, "*History and Examination: Accident on 15/09/2017 – his underlying was chronic bronchitis – no fever – he got severe pain on chest when he cough*". M.A.S telephoned the Complainant and he asked for the Agent to call back in a few minutes but when the Agent did, the Complainant did not answer. The M.A.S medical team confirmed that the Complainant had been reviewed at a suitable facility and was fit to fly commercially with a doctor escort due to the need for regular morphine injections. The repatriation was discussed with the M.A.S Director of Nursing and a pre-repatriation telephone assessment with a M.A.S nurse, part of its standard protocol, was recommended to assess the Complainant's fitness to fly, mobility etc. and allow for the appropriate arrangements, including medical clearance, to be made.

M.A.S received a call from the Complainant querying why X. Hospital had sent it a medical report without sending the report to him first, as he had requested at the appointment. The Agent told the Complainant that he must take this matter up directly with the hospital. The Agent also advised that M.A.S had been in contact with the hotel to arrange payment for food. The Complainant then stated that his hotel room was not adequate, but M.A.S checked and deemed that a twin deluxe room had been booked and was adequate for his current needs.

In addition, the Complainant advised that he did not want to attend for a testosterone check appointment the next day at X. Hospital, but would like instead to go for a morphine

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injection. The Agent advised that it would cancel the testosterone check appointment and call the next day with a nurse to complete the pre-repatriation telephone assessment.

23 September 2017:

The Complainant telephoned M.A.S to advise that the driver it had booked to take him to X. Hospital had shouted at him and driven off without him and that he had to borrow money to get a taxi to the hospital. The Agent agreed to call him back in 30 minutes to complete the pre-repatriation telephone assessment as the Complainant was at that time being seen in the hospital, and he agreed to this. During the agreed call back, the Complainant seemed incoherent and unable to respond to simple questions and the Agent decided to delay the pre-repatriation telephone assessment due to concerns that the morphine injection might be making him confused.

M.A.S called the Complainant four hours later and connected him with an M.A.S nurse, who completed the pre-repatriation telephone assessment. During this call, the Complainant told the nurse that he had not eaten for four days and that M.A.S had let him go hungry, but then said that he had eaten a sandwich and some fish within the past 24 hours. In this regard, M.A.S had authorised appropriate accommodation with food for the Complainant and the relevant guarantee of payment had been placed with the hotel. The nurse advised the Complainant that he considered him fit to fly with a doctor escort, at which point the Complainant queried the nurse's responses and stated that he did not trust M.A.S. The nurse looked to address the concerns he had about his flight home but ultimately, the nurse gained the impression that the Complainant did not want to return home. As a result of the assessment, M.A.S alerted its repatriation team to make arrangements for the doctor escort and emailed the Complainant to confirm same and to request a copy of his passport.

24 September 2017:

M.A.S telephoned the Complainant, who answered but advised that he could not hear. M.A.S then received a call from its local agent to advise that the Complainant had been in contact with them directly about the hotel costs. M.A.S followed up with its travel agent regarding the hotel costs and emailed the Complainant to chase up a copy of his passport. M.A.S reiterated to the Complainant that the Provider was covering the cost of the hotel room and up to €35 a day for food. There was some difficulty with the hotel in getting a response, but it did however confirm that it knew that the Provider would be paying for meals. A further appointment was made for the Complainant to attend at X. Hospital later that day and he was satisfied with the arrangements. M.A.S also received a copy of the Complainant's passport, which was sent to its repatriation team and a repatriation schedule was received detailing flights for 30th September.

25 September 2017:

M.A.S received a medical report from X. Hospital which held little information and the treating doctor recommended that the Complainant rest for a further 10 days. The M.A.S

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medical team however confirmed that its advice remained unchanged and that the Complainant would be fit to fly with a doctor escort. M.A.S telephoned the Complainant and he stated that he would be happy to fly home on the advice of the M.A.S medical team and the Agent then informed him of the proposed schedule, with flights for 30th September. When the Agent called back 30 minutes later, the Complainant stated that he did not now want to travel home on 30th September as the doctors in X. Hospital had advised him that he was not fit to travel until 4th October. The Agent referred the matter to the M.A.S medical team, which reconfirmed that the Complainant was fit to fly with a medical escort.

26 September 2017:

The Complainant telephoned M.A.S for an update and asked for a call back to his Asia mobile. A M.A.S manager called the Complainant back and provided a full explanation of the situation. The Complainant expressed concern at the proposed flight time for 30th September and wanted this changed. The Manager advised the Complainant that in view of the medical recommendations, which were based on the medical information available, his request would need to be referred to the Provider. As there was no medical reason to change the flight time and incur extra costs, the Provider advised that the Complainant would be off cover if he did not accept flying at the arranged time. It is noted that a Medical Certificate from X. Hospital dated 26 September 2017 stated, *"Recommendation – consult fit to fly before fly back to IRELAND"*.

27 September 2017:

M.A.S telephoned the Complainant to advise that his flight was booked for 30th September with a Doctor Escort, and he agreed to go ahead with this schedule. The Complainant then contacted the underwriters directly to advise that he now had an ENT infection and was not fit to fly. In this regard, the Provider notes that a fit to fly call had been completed with the Complainant earlier in the day and no mention had been made of an ENT infection at that time. The Complainant then attended the arranged hospital appointment as planned and it is noted that the Medical Certificate from X. Hospital dated 27 September 2017 stated, as follows:

***"History and Examination:** consult from chest medicine about cough problem for 2 weeks with blocked nose. He has history of rib fracture ...*

***Recommendation:** suggest avoid take airplane and scuba diving until infection is resolved due to risk of ear barotrauma".*

The Doctor Escort who was due to accompany the Complainant home on 30th September was already en route to Asia at that time.

28 September 2017:

The Doctor Escort arrived and carried out an assessment, in which he confirmed that the Complainant was fit and could travel home with a medical escort.

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29 September 2017:

When M.A.S telephoned to see if he was ready for his planned repatriation, the Complainant advised that he felt unwell. M.A.S thus reinstated a previously cancelled medical appointment at X. Hospital for later in the day but when it called to confirm this, the Complainant refused to attend as he stated that he had been told by the Doctor Escort that he would be travelling home. The M.A.S Manager then explained to the Complainant that it needed to check the ENT matter that he had complained of, as he had advised that he felt unfit to fly.

The M.A.S Manager telephoned the Complainant and again explained that it needed him to attend for review at X. Hospital to confirm his fitness to fly. The Complainant was at that time out meeting friends and was not prepared to change his plans in order to attend the appointment, but instead stated that he now wanted to fly home with the Doctor Escort. The Complainant was told that this option had now been cancelled, as he himself had stated that he was not fit to fly. The Complainant refused to attend the hospital appointment.

In this regard, the Complainant had been scheduled to fly out of X. at 02:40 on 30th September. The Doctor Escort had been locally placed to accompany the Complainant to Ireland and an appointment in X. Hospital was made for between 20:00 and 22:00 on 29th September to tie in with the travel arrangements, so that the Complainant could then go straight to the airport from the hospital. The Complainant took issue as he had been previously told that he did not have to travel until 22:30 and was very irate and would not allow the Agent to finish imparting the information. The Agent clearly set out the terms of the policy. The Complainant was unhappy and the Agent ended the call.

The M.A.S Manager then telephoned the Complainant and following further discussion agreed to change the plans for his repatriation and confirmed that the hotel would be extended and the additional costs covered, but that it may be 2nd October before he could now fly out. The M.A.S travel agent worked to resolve an issue with payments to the hotel and the Complainant's flight ticket for business club, which had been upgraded by M.A.S earlier that day, was revalidated for 3rd October.

30 September 2017:

M.A.S telephoned the Complainant to advise that it was making an appointment for him to attend at B. International Hospital, X. on 2nd October as it needed to obtain a fit to fly certificate if he was to fly home. The Agent spoke with the Complainant a second time to confirm that the hotel accommodation had been extended and he was satisfied with its efforts at that stage regarding the hotel.

1 October 2017:

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M.A.S spoke with the Complainant and advised that it had sent the appointment request for 2nd October and was awaiting confirmation of same. It then called B. International Hospital and confirmed the appointment for 12:30 and arranged transport to same and a guarantee of payment was sent for the visit.

M.A.S then telephoned the Complainant to confirm that the appointment and transfer was in place and an email was also sent to him with details and advice that he obtain a fit to fly certificate. The Complainant then informed the Agent by telephone that he would not now go to B. International Hospital as he had obtained his own fit-to-fly certificate. In this regard, it is noted that the Medical Certificate from [location] International Hospital dated 1 October 2017 stated, as follows:

“Diagnosis – Sinusitis – Bronchitis – Improved Fracture Left Rib – Carcinoma of Bladder (Post Partial Cystectomy) ...

Recommendation – Now he is fit to fly”

As he refused to go, the Agent cancelled the Complainant’s appointment at and transfer to B. International Hospital.

2 October 2017:

A M.A.S Manager telephoned the Complainant to confirm that its medical team had recommended that he attend for review in B. International Hospital, but he terminated the call. The Manager tried to call back twice, but the line rang out without being answered. The M.A.S Medical Manager advised that if the Complainant had a fit to fly certificate that did not mention any oxygen or escort requirement, then he would be considered fit to fly without special assistance. M.A.S then asked the Complainant for a copy of a fit to fly certificate that stated that he did not require medical escort, which he initially refused to send. The Agent advised that this certificate was required in order to apply to the airline for medical clearance for him to fly and he then obliged. It is noted that a Medical Certificate from [location] International Hospital dated 2 October 2017 stated, as follows:

“Diagnosis – Sinusitis – Bronchitis – Improved Fracture Left Rib – Carcinoma of Bladder (Post Partial Cystectomy) ...

Recommendation – This man is fit to fly and does not require assistance from a doctor or any medical personnel”.

Though it is not a medical facility that M.A.S would use to provide medical services, the Complainant had obtained the fit-to-fly certificate from [location] International Hospital, having attended this hospital as his own choice. Given that he was very keen to return home and had indicated that he wanted to accept the medical advice provided by [location] International Hospital, this fit-to-fly certificate was submitted onwards to the airline to

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obtain clearance. Medical clearance was granted by the airline and M.A.S arranged for its local agent to take the Complainant to the flight on 3rd October. It also arranged a cash advance to allow the Complainant to pay the overstay fine he had incurred due to his expired visa.

3 October 2017:

The M.A.S medical team reviewed and deemed the travel arrangements made for the Complainant to be both appropriate and safe. In this regard, M.A.S had ensured that the flights booked were the most direct possible and in view of his condition and to ensure he was as comfortable as possible, the Complainant had been booked into business class, with his luggage checked in at X., through to Dublin. In addition, the Complainant was fully apprised of his travel itinerary which, including transfer times, was permissible within the booking system and did not require a change of terminal. The Complainant boarded the flight and returned to Ireland.

As can be seen from this timeline of events, the Provider is satisfied that its Agents made best efforts throughout to provide the Complainant with clear advice and good customer service. It has listened extensively to the telephone call recordings with the Complainant in relation to this matter, which total over 40 hours, and it is satisfied that these calls were professionally handled. Whilst it understands that this was a distressing time for him, the Provider is satisfied that its Agents showed the Complainant significant empathy and patience throughout their many dealings with him and remained mindful of the fact that he was travelling alone and vulnerable. The inconvenience of being ill whilst away is something that travel insurers are clearly aware of and every effort was made to accommodate the Complainant. In this regard, given that the Complainant had put forward a number of different reasons for not travelling – initially blood tests due to feeling run down, then bronchitis, then injuries from the motor bike taxi accident and later an ENT complaint – M.A.S. adopted a cautious approach to ensure his safe return to Ireland. The Complainant appeared anxious to return home and the Provider was keen to support him.

The Provider notes that M.A.S emailed the Complainant's GP, Dr P. on 20 September 2017 seeking his previous medical history, which it again requested by email and telephone on 9 October 2017. This medical history was received in November 2017 and the Provider had no cause to raise any issue regarding previously existing conditions as on full review of the matter, it was clear that the Complainant's travel insurance policy had ceased with effect from 23:59 on 12 September 2017 and that any subsequent claim would not have been covered as the Complainant's initial change of flight on 12th September was never verified as being medically necessary. Be that as it may, the Provider has paid a total of GBP £14,851.60 (€18,813) in respect of the Complainant's claim, as follows:

Payee	Amount
[location] International Hospital	£206.48
April Assistance Asia	£151.26
Flights	£7,515.67
Hotel	£2,749.19

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Doctor escorted repatriation	£3,015.61
X Hospital [location]	£1,213.48
	£14,851.69

The Provider understands that the Complainant was overseas without access to funds but this is something that his travel insurance policy did not provide any cover for. Nevertheless, the Provider paid a daily allowance of €35 directly to the hotel towards his breakfast, lunch and dinner costs. There is no cover for such expenses under his policy but the Provider paid this allowance in an effort to provide additional support. The Provider also paid the overstay fine incurred by the Complainant due to his expired visa, which is also not provided for under his policy. Furthermore, the Provider incurred other expenses in respect of missed medical appointments and the cost of a doctor escort flying to Asia on 28 September 2017 to escort the Complainant home and who had to return the next day without the Complainant, who was feeling unwell again.

The Provider is satisfied that its Agents made great efforts to provide support to the Complainant during his extended time in Asia. Even though it is now clear that his travel insurance policy had ceased on 12 September 2017 and that any subsequent losses, such as his diagnosis of bronchitis on 13th September or the injuries he sustained arising from the motor bike taxi incident on 16th September, would not have been covered as his initial change of flight on 12th September was never verified as being medically necessary, the Provider nevertheless met the medical expenses of the Complainant in Asia and the cost of his repatriation to Ireland. In this regard, the Provider and its Agents dealt with the Complainant's claim in good faith and went significantly over and above the policy cover, even if the policy had been extant at that time.

The Provider notes that this was a complex case due to the different losses experienced by the Complainant, and at times the information received from him was inconsistent both in terms of timely advice of his health issues and his getting medical attention separately and independently of the appointments and reviews arranged for him. This resulted in its Agents having extensive conversations and interactions with the Complainant. The Provider acknowledges that there were occasions where its Agents contacted the Complainant at unsociable hours and for this it apologises. In addition, the Provider fully accepts that one particular telephone call on 29 September 2017 contained a conversation and change of plan for the Complainant that was not of the service it would expect and this is its main consideration in offering the Complainant a compensatory customer service award in the amount of €750.

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.

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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 on 24 October 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 additional submissions from the parties, the final determination of this office is set out below.

The complaint at hand is that the Provider and its Agents furnished the Complainant with poor customer service throughout his illness whilst abroad in Asia on holiday. In this regard, the Complainant incepted a single-trip travel insurance policy with the Provider on 21 August 2017, in respect of his holiday to Asia from 22 August to 12 September 2017.

I note that the Complainant telephoned M.A.S, the emergency medical assistance service engaged by the Provider, on 12 September 2017, five hours after his original scheduled flight to Ireland had departed, to advise that he had felt too unwell to travel and had rescheduled his flight to 18th September and wanted to extend his travel insurance cover accordingly. The Complainant stated that he had been receiving medical treatment since 24 August 2017 for fatigue, loss of appetite and irregular bloods, advising *"I won't say ill, I got quite run down"*. I note that the Complainant's first notification to the Provider or its Agents of any issue that he had was after his scheduled flight had departed. In this regard, it would have been prudent of the Complainant to have notified the Provider when he first felt unwell and sought medical attention in Asia, regardless of whether he himself thought the illness was minor and/or related to a pre-existing condition.

Having listened to a recording of this telephone call from 12 September 2017, I note the following exchange:

Agent: *Have you rearranged your flights?*

Complainant: *Yes, I just done that.*

Agent: *Ok, alright, and, em, so we will need to open a file, we are the medical assistance company, we work on behalf of your travel insurance, em,*

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so I will take your details and open a file and then we will speak to the insurance company for verification purposes, they will give us all the information with regards to your policy, em, so, if, we will need a medical report to confirm that you are not fit to fly.

If that is the case then don't worry about the extension, if there is a medical emergency the policy will be extended automatically, if you see what I mean, until you are fit to fly -

Complainant: *Yeah. What am I meant to do? That's what I want to find out from you because I have a letter from the doctor I just collected a few moments ago and I have to go to his assistant tomorrow because they want to do another blood test -*

Agent: *So we need a letter from the doctor, yes, we will need a medical report from the doctor confirming that you are not fit to fly.*

Complainant: *He didn't put that exactly on the letter. He just said, what he said was – eh, 68 year old Irish man had feeling no power and fatigue and they did this blood count on me and found that some of my portions of my blood were not right and I was then left and I still felt pretty bad so ...*

Agent: *Ok, we, I am not medically trained, I am not medically trained but you will need to forward the report, we will pass it on to one of our, the members of the medical team and they will be able to establish if you are fit to fly or not. If you are fit to fly then you need to come back and you know carry out, carry on with the investigations in Ireland so –*

Complainant: *Yeah but my flight was booked for this morning ex X. at 10 o'clock. It's now 3 o'clock in the afternoon and I've only come out of the hospital about ten minutes ago so I cannot fly because there is no flight to go on now, it's gone, but I had to go ...*

Agent: *Ok, like I said, we need a medical report and then the medical team will let us know if your, if your decision was appropriate or not, em, but without the medical report we won't be able to, to clarify that*

Complainant: *Yes. What happens in the meantime, medical report or no medical report? Am I still covered insurance wise? I've reported it to you now as the medical emergency -*

Agent: *Yes. We need the report. Without the report we won't be able to tell you one way or the other"*

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, I note that the **'Please note**

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Important Information' section of the applicable Travel Insurance policy document provides, *inter alia*, at pg. 2, as follows:

"Trip extensions

*If, once you have left the Republic of Ireland and before the end date of the period of insurance, you decide you want to extend your insurance, please contact [the Insurer]. **Extensions can usually only be considered if there had been no change in your health**"*

[Emphasis added]

As the Complainant had been receiving medical attention in Asia since 24 August 2017, I am satisfied that on 12 September 2017 the only way in which his policy could have been extended beyond that date was if he had furnished the Provider with evidence from his treating doctors that he had not taken his original scheduled flight to Ireland on 12th September due to a medical necessity and that the Provider then confirmed that this medical necessity was not related to a pre-existing medical condition. In this regard, I am satisfied that it was reasonable for the Provider to conclude from the evidence before it that the Complainant's initial change of flight on 12 September 2017 was never verified as having been medically necessary. As a result, I accept the Provider's position that the Complainant's policy expired at 23:59 on 12 September 2017 and I am satisfied that it would have been entitled to repudiate his claim on this basis.

Nevertheless, the Provider and its Agents continued to deal with the Complainant in good faith. I note that the Provider paid the medical expenses of the Complainant in Asia and the cost of his repatriation to Ireland, as well as meeting ancillary expenses that would have fallen outside the scope of cover, even if his policy had still been in force and he had had a valid claim. In this regard, even though I am satisfied that it was under no obligation to do so, the Provider paid a total of GBP £14,851.60 (€18,813) in respect of his claim and the Complainant must no doubt be appreciative of this ex-gratia payment. That said, the Complainant's complaint is that the Provider and its Agents furnished him with poor customer service throughout his illness whilst he was abroad in Asia on holiday.

Following the expiration of his travel insurance policy at 23:59 on 12 September 2017, the Complainant telephoned M.A.S on 13 September 2017 to advise that he has been diagnosed with bronchitis earlier that day, and on 19 September 2017 telephoned to advise that he had been involved in an incident on 16th September where a motor bike taxi that he had been travelling upon had fallen on top of him, fracturing a rib and hurting his back. It is understandable, given these evolving circumstances, that the Provider and its Agents had cause to maintain significant contact with the Complainant throughout his extended stay in Asia and that it was necessary for a number of changes to be made to its plans to repatriate him. I am satisfied from the recordings of the telephone calls submitted that the Provider and its Agents at all times sought to ensure that the Complainant was fit to fly and that it amended the itinerary for returning him home when he was unwell and not fit to travel. Whilst he has expressed dissatisfaction with the number of calls that he received from the

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Provider and its Agents and the unsociable hours of some of these, I note that it would have been open to the Complainant, particularly given that he had friends in Asia, to have nominated another person for the Provider to liaise with on his behalf.

Having listened to all the recordings of the telephone calls between the Provider and its Agents, I am satisfied that the different Agents all sought to deal with the Complainant in a professional manner. It is evident that the connection on some calls was poor, which often made it hard for one or both parties to hear, and this made some communications difficult and strained. I note one particular call, however, that took place on 29 September 2017 where the Agent advised the Complainant, *inter alia*, as follows:

"I'm going to stop you there, cause with all due respect you've done a lot of the talking and now it's our turn to explain to you what is happening, ok? This is not a negotiation ...

We have taken instructions from your insurers who at the end of the day are responsible and are paying the bills for the assistance that we are providing ...

Let me finish and then that will be the end of the conversation and you have a yes or no choice to make, ok? This is very straightforward now ...

Right, its straightforward, right, this is now how unfortunately it's going to have to be. Our doctor is coming home on a flight as planned at 2.40 tomorrow morning – if you choose to go against our instructions as regards the appointment and as said this has been discussed with your insurers, I refer to section 7 in your policy which says if you go against the instructions of the medical assistance company provided by your insurers, cover ceases to exist. So you can either go to the appointment with our doctor prior to the flight and be assessed at the facility or chose not to and our doctor will come home at 2.40 tomorrow morning on a flight on his own and you will be in Asia but there will be no cover under your policy going forward, which choice do you wish to go with? ...

The message I am passing on to you is obviously the instructions from your insurers ...

No...I am not continuing this conversation because unfortunately we have come to a point where it is quite black and white what needs to happen".

I note the Provider's position that this was its Agents' fifth telephone call with the Complainant that day and at the time of this call there had been extremely extensive engagement with him in order to try to arrange to get him home. In this regard, whilst I acknowledge that the Agent in question was forceful in his tone and comments, I am mindful, given the protracted dealings between the Complainant and the Provider and its Agents, that the contents of this one telephone call ought not be taken in isolation but instead be considered within the overall context of all the communications that had preceded it. As I have stated previously, I am satisfied that the different Agents who dealt with the Complainant did so in a professional manner and were working to ensure that he

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was receiving the medical attention that he needed and arranging for his safe return to Ireland.

I note that the Provider submits that this was a complex case due to the different losses experienced by the Complainant, resulting in its Agents having extensive conversations and interactions with him. I also note that the Provider has apologised for the occasions where its Agents had cause to contact the Complainant at unsociable hours and that it has accepted that the particular telephone call on 29 September 2017 that I have referenced above, contained a conversation and change of plan for the Complainant that was not of the service it would expect. In recognition of this, I note that the Provider has offered the Complainant a customer service payment in the amount of €750. I consider this to be a fair and reasonable offer in the circumstances, particularly given that the Provider, even though I am satisfied that it was under no obligation to do so, has already paid a total of GBP £14,851.60 (€18,813) in respect of the Complainant's claim.

The Complainant also complains that the Provider and its Agents required him to be reviewed at X. Hospital, which was a considerable distance away from his hotel, particularly when the [location] International Hospital was nearby. He also questions why then the Provider and its Agents were willing to accept a fit to fly certificate from [location] International Hospital on 2 October 2017 when it had previously arranged for him to be medically reviewed elsewhere. In this regard, I accept the Provider position that the medical reports received at that time from [location] International Hospital were not sufficiently detailed for the M.A.S medical team and that it instead sought for the Complainant to be assessed at its chosen medical facility, the X. Hospital. I note that the 'General Conditions applying to all sections of Your Policy' of the applicable Travel Insurance policy document provides, *inter alia*, at pg. 18, as follows:

"5. You must agree to have a medical examination if We ask."

I am satisfied that it is a matter for the Provider and its Agents to determine where any such medical examinations should take place. In addition, whilst previous medical reports from [location] International Hospital may not have been sufficiently detailed for the M.A.S medical team, I note that the Medical Certificate from [location] International Hospital dated 2 October 2017 stated, *"This man is fit to fly and does not require assistance from a doctor or any medical personnel"* and I am satisfied that this information was clear and thus that it was appropriate for the Provider to rely and act upon it.

Finally, the Provider offered the Complainant a customer service payment in the amount of €750, which remains open to him to accept. In the circumstances, I consider this offer to be fair and reasonable and note that it remains a matter for the Complainant to now advise the Provider directly if he wishes to accept that offer. If he wishes to do so, he should communicate accordingly to the Provider, in the short-term, as the Provider cannot be expected to hold that offer open for acceptance, indefinitely.

Accordingly, whilst I note that the Complainant believes that the Provider was guilty of poor customer service to him, during the relevant period, I disagree. For the reasons outlined above, I do not believe that it would be reasonable to uphold this complaint.

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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**

13 January 2020

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.