



<u>Decision Ref:</u>	2020-0327
<u>Sector:</u>	Insurance
<u>Product / Service:</u>	Travel
<u>Conduct(s) complained of:</u>	Complaint handling (Consumer Protection Code) Delayed or inadequate communication Dissatisfaction with customer service
<u>Outcome:</u>	Rejected

LEGALLY BINDING DECISION
OF THE FINANCIAL SERVICES AND PENSIONS OMBUDSMAN

The complaint relates to the standard of service provided to the Complainants following a claim made by them on a travel insurance policy they held with the Provider.

The Complainants' Case

The Complainants purchased a travel insurance with the Provider on 7 November 2016 and departed on 4 January 2017 for their holiday to a European city.

While on holiday, the Second Complainant suffered an injury. She was admitted to hospital and had surgery on her [injury redacted]. The core of the Complainants' complaint is that the assistance put in place by the Provider, under the insurance policy purchased by the Complainants, was inadequate and not to the standard they expected and were entitled to. The Provider outsourced its medical assistance service to a third party.

The Complainants contacted the Provider shortly after the injury occurring. Having contacted the Provider seeking its help and assistance, they say, there was no assistance forthcoming. They say they had to follow up numerous times with the Provider for a response. Ultimately, the Provider acknowledged the Complainants, but the Complainants believe there was still no adequate communication or advice provided to them.

On 13 January 2017, the day the Complainants returned from their holiday, they were given, they say, 30 minutes notice for the travelling date, the flight information and for preparing to return from their holiday.

This created a difficulty for the Complainants given the Second Complainant's circumstances and requirements which they submit was not taken into account by the Provider. In addition, they state that the doctor provided by the Provider advised that the Second Complainant could travel but with restrictions and the Complainants say the Provider did not take this into account. Therefore, the Complainants believe they did not receive adequate assistance during their return journey. For instance, suitable arrangements in respect of an appropriate taxi for transporting them and their luggage to the airport and the availability of a wheelchair had not been put in place by the Provider. The Complainants emphasise that they expected far better service than that received.

The Provider upheld the Complainants' complaint in full and offered payment of €300.00 to the Complainants by way of a resolution. The Complainants refused the offer and returned the cheque.

The Complainants want a comprehensive explanation for why there were service failings at a time that the Complainants needed them and they wish to be get "*fair compensation*".

The Complainants' complaint is that the Provider's assistance put in place under their travel insurance policy was inadequate and below the standard they were entitled to under the insurance policy. Another element of complaint is that the Provider's communication with the Complainants was not up to the standard they were entitled to expect.

The Provider's Case

The Provider, in its letter of 16 May 2017, found in favour of the Complainants in "*upholding [the] complaint in full*" and indicated its intention to make a payment of €300.00 "*by way of resolution*". As noted in the response of the Provider to this office, certain acknowledgements were made:

During the initial complaint response, we acknowledged [that the Provider] could have been more proactive in contacting and updating the family via e-mail. Had they done so this would have meant they were not waiting and wondering what was happening.

The Complainants were not satisfied with the Provider's response and rejected the offer of compensation causing the Provider to reconsider the matter. In its letter of 11 August 2011, the Provider stated that it was satisfied that its response of 16 May 2017 was adequate and, in particular, that the compensation of €300.00 which had been offered was sufficient. The offer of compensation was expressly stated to remain open.

The Complaint for Adjudication

In light of the acknowledgements made by the Provider, my function is to determine whether the Provider's response and compensation offered was sufficient.

Decision

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

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

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

A Preliminary Decision was issued to the parties on 10 September 2020, outlining my preliminary determination 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 First Complainant, in his letter rejecting the offer of compensation which seems to have been dated 16 June 2017, articulated his grievances regarding the Provider's conduct in the following terms:

Can you believe that 3days post [redacted] surgery, less than one hour notification to vacate the room and report to the airport, taxi wasn't informed about the patient condition, initially refused the entry finally taxi agreed because of humanitarian consideration, no airport assistance or help, patient was on pain cant [injury redacted], I am with 3kids, 5 bags, no wheelchair, big drama/delay in airport denied check-in, finally agreed and rush into boarding, the struggle which I had its unimaginable.

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The First Complainant focused on one particular issue as follows:

Still you are trying to say the excuse and hiding the reality and rectify yourself, you were saying that your company issued me the return flight tickets night before as an advanced notice, I have an evidence to prove that it is wrong excuse, your company gave me the tickets 2'hrs prior travel (Fri, Jan 13, 2017 at 2.22 PM), this is a simple example, but the reality was far away from this because of I depend on you which I expected and paid for it.

The Complainants take issue with the manner in which arrangements were made to fly them home (in particular as regard timings), with the nature of the taxi service provided to bring them to the departure airport, and with the service provided to them on arrival at the departure airport.

With regard to the manner in which arrangements were made to fly the Complainants home, the Provider has furnished this office with a useful chronology. It is apparent from that chronology that the Provider was first informed about the Second Complainant's injury on the afternoon of 10 January 2017.

The Second Complainant underwent surgery later that day and, on the afternoon of the following day, the First Complainant advised the Provider that the Second Complainant was being prepared for discharge later that day. The hospital advised that the Second Complainant would need to [injury redacted] on any flight and would need wheelchair assistance albeit that the Second Complainant subsequently confirmed that she could mobilise with [mobility aid redacted]. The Provider advised the Complainants that a Fit to Fly (FTF) Cert would be required. In the event that the treating doctors would not complete an FTF Cert, a medical report would be required to allow the Provider's doctors to complete an FTF Cert, if appropriate.

On 12 January 2017 (one-day post discharge), the Provider advised the Complainants of three flight options for them to fly home on the following day. Following various failed efforts at telephone calls to confirm the Complainants' preference, the Complainants, in a phone call the next day at 18:15, selected the latest of the three flight options, namely a flight departing at 18:20 on 13 January 2017.

This was reconfirmed by email from the First Complainant at 18:50 and further reconfirmed by the First Complainant in a phone call at 20:49. It is unclear when precisely the flight tickets were purchased but certainly a direction was made to purchase them at 18:32.

On 13 January 2017, the Provider contacted the First Complainant at 12:25 looking for a copy of the medical report previously requested which would allow the Provider to have its own doctors complete the FTF Cert in order to allow the Second Complainant to fly. The First Complainant noted his dissatisfaction at not having been contacted prior to 12:25. Further requests for the medical report (again there appear to have been multiple failed efforts to

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contact the First Complainant on his mobile phone) were followed by the First Complainant providing this report in an email at 13:31.

Thereafter, the FTF Cert was completed at 13:43 and, at 14:22, an email was sent to the First Complainant containing tickets/boarding passes. A phone call was made to confirm the foregoing at 14:23.

One of the Complainants' chief grievances, as set out in the second passage quoted above from their letter of 16 June 2017, is the brevity of notice provided to them as regards their return flight. The Complainants were offered, on the evening of 12 January 2017, three flight options all departing the following day. They chose the last of the three options. I fail to see how the Complainants can maintain that they were afforded insufficient notice of this flight given that they had expressly selected this option on the evening of 12 January 2017. The fact that formal boarding documents were not emailed until the following day (four hours prior to scheduled take-off) does not mean that the Complainants did not have notice of the flight from the previous day. The Provider offered the flight the day before on (12 January 2017) and the Complainants agreed to this flight. In this regard, the evidence does not support the claim that the Complainants were provided with "*less than one hour notification to vacate the room*".

The Provider has however apologised for its "*poor communication*" and for failing to provide more updates by email. It would no doubt have been preferable for the Provider to confirm that the flight tickets had been purchased on the evening of 12 January 2017 or on the morning of 13 January 2017. It may be that the delay in receiving the medical report was a factor.

With regard to the taxi which brought the Complainants to the departure airport, the Provider indicates that it rang the Complainants' hotel at 14:36 and the hotel undertook to arrange the taxi and this was communicated to the Complainants at 14:40. The Provider then proceeded itself to make arrangements for a taxi to collect the Complainants from Dublin airport. It transpired that the taxi which brought the Complainants to the departure airport was not advised of the Second Complainant's injury and may have been unwilling initially to transport the Complainants and their family to the airport albeit that it ultimately did so.

Whilst this is obviously far from ideal, the taxi did not refuse the Complainants. Additionally, this seems to me to have been a failing more so on the part of the Complainants' hotel than on the part of the Provider. In this regard, it seems to me to have been entirely reasonable for the Provider to entrust the task of arranging the taxi to the local hotel though it may be that the Provider failed to emphasise the necessity to arrange a suitable vehicle.

One further issue arose in relation to the taxi insofar as, owing to security measures in place at the departure airport, the taxi was unable to access the usual drop-off area and was forced to deposit the Complainants further away from the check-in gates that would ordinarily have been the case. Again, this was unfortunate but I do not see that this is a matter that can be blamed on the Provider.

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With regard to the service provided to the Complainants on arrival at the departure airport, there seems to have been no wheelchair available and there also appears to have been an initial reluctance to allow the Complainants and their family to board. The Provider has noted that it contacted the airline with which the Complainants were travelling and requested wheelchair assistance.

The Provider states that is advised the Complainants that they need simply approach the airline's desk at the airport to avail of the assistance. The Provider notes that it cannot guarantee a wheelchair as they are provided by the airport (as opposed to by individual airlines) and are subject to availability. The delay in boarding resulted from a query being raised by airport staff regarding the FTF Cert and the fact that it was not completed by the treating doctor. The Provider notes that it dealt with this issue promptly by arranging for its doctor to speak with the relevant airport personnel to ensure that boarding was permitted.

In summary of the entire ordeal, the Provider notes that:

The family were flown home safely, on time, on their preferred flight and transferred back to home address.

Provisions on the flights were made for additional seats; wheelchair support was requested at the airline; and [the Provider] requested a larger vehicle for the transfer from Dublin airport to the home address.

On the other hand, the Provider also makes the following concessions:

However whilst we accept that there were errors with the information we reviewed and conveyed to the Complainants in our responses in 2017, we firmly believe there was no detriment caused to the Complainants and the outcome we arrived at, and the level of compensation we offered, fairly reflects the inconvenience the Complainants were caused on the afternoon of 13 January 2017.

Viewing the entire interaction as a whole, I accept that the Provider made reasonable efforts to repatriate the Complainants and their family promptly and without cost to the Complainants. Whilst the journey did not progress as smoothly as one might have hoped, I accept that the Provider's response of 16 May 2017 and 11 August 2017 adequately dealt with the shortcomings in the service provided by it. I am equally satisfied that the compensation offered was reasonable in the circumstances.

It is important to point out that the Complainants were offered, on the day following discharge, a number of options to return home and they were successfully repatriated on the flight of their choice two days following discharge and within a matter of hours of the Complainants providing the necessary medical report. The Complainants did not suffer any delay and the Provider acted promptly in making arrangements (albeit not necessarily in

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communicating those arrangements) as evidenced in particular by the speed with which the FTF Cert was completed following receipt of the medical report.

I have been provided with absolutely no evidence that the Provider acted in any way in a “racist” manner.

On the basis that the Provider has acknowledged the shortcomings in its communication and offered a sum of €300 at an early stage, I do not uphold this complaint.

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**

1 October 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.

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