



<u>Decision Ref:</u>	2021-0511
<u>Sector:</u>	Insurance
<u>Product / Service:</u>	Travel
<u>Conduct(s) complained of:</u>	Claim handling delays or issues Rejection of claim
<u>Outcome:</u>	Upheld

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

The Complainants hold a multitrip travel insurance policy with an insurance company (the “Provider”).

The Complainants’ Case

The Complainants had a return flight booked on **18 March 2020** from Dublin to Mexico with a connection in Spain which they did not board due to the Irish Department of Foreign Affairs travel advice to avoid all non-essential travel due to Covid-19. The Complainants assert that the Provider has wrongly failed to indemnify their Multi-trip travel insurance policy claim which they submitted on **21 March 2020**. Upon submitting a claim to the Provider, the First Complainant says they have been directed between the flight Airline, and the Travel Agency, who in turn say they cannot issue a refund of the Complainants’ flight costs. The Complainants were offered credit vouchers from Airline 1 with restrictive terms and conditions, but they have requested a full cash refund of the flight ticket costs in the amount of €2,399.00 (two thousand three hundred and ninety nine euros). The Complainants point out that vouchers to travel during 2020 or within 12 months during the period of 2021 are uncertain and "*of no use or value*" to them. The Complainants say the Provider refuses to reimburse a full cash refund.

The Complainants submit, by email to the Provider dated **30 March 2020**, that:

“We were unable to travel outbound, Dublin via Madrid Barajas to Mexico International, on 18th March as Dept Foreign Affairs travel advisory on the day for both Spain & Mexico was "no non-essential travel" due to Covid 19. Return flight was 19th April, 35 days abroad [Airline 1] have refused a refund & have offered a credit note with unacceptable conditions, i.e. must be booked before 4th Jan 2021 (we booked originally on 4th Jan 2020; travel must be completed by 18th March 2021 (one year anniversary of our original outbound date). My husband & I are unable to get 35 days off work together again in the foreseeable future. As I will be 65 years old in [month redacted] this year, 2020, I will be unable to get travel insurance for trips over 30 days without paying additional supplement when I turn 65. We have been forced to abandon this trip completely.”

The Complainants submit on **24 November 2020**, the following:

“When my husband & I booked the flights in January 2020, I prudently advised the Irish Embassy in Madrid of our travel plans for 18th March. We received an email from the Irish Embassy in Mexico city on 19th March advising us to return home to Ireland if we had travelled. Luckily we hadn't. We were due to fly to Mexico City, via Madrid, with [Airline 1], on Wednesday 18th March 2020, just as C19 was spreading. As advised by prevailing Dept of Foreign Affairs travel advise to avoid all non-essential travel, we didn't start our holiday. Our flight took off without us on board. Flight costs for two tickets was €2399. [Airline 1], via our [Travel Agent] have offered us a refund via vouchers with restrictive terms & conditions which render the vouchers of no use or value to us, e.g. book before 3rd January 2021 & complete any trip by 18th March 2021. It is extremely unlikely that we will be flying abroad in the foreseeable future. We paid cash, had travel insurance & a legitimate expectation that our holiday costs would be reimbursed. Ours is not an exaggerated claim.

We managed to get refunds for hotel, city tours & Airbnb thus mitigating our claim. Our only claim on [Provider] Travel is for the cost of the flights. It is evidently not an exaggerated claim. I wonder, had we travelled on 18th March, subsequently got stuck in Mexico & sought emergency repatriation, as advised to me by the Irish Embassy in Mexico on 19th March, our claim would have been greatly in excess of €2399. I wonder if [Provider] would have told us we were reckless to leave Dublin on 18th March. I wonder if we had succumbed to C19 in Mexico & sought expenses for local medical care what would [Provider] have said.

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See email from Irish Embassy to me of 19th March advising us, if we had travelled, to return to Ireland as soon as possible. Their assessment was erred & fundamentally flawed as they assessed it that [Airline 1] had 'cancelled' the flights & tried to put the onus & responsibility on [Airline 1] to compensate us. Our flight wasn't 'cancelled.' We prudently followed the prevailing clear unambiguous advice & didn't travel. Our flight departed as scheduled but without us on-board.

We feel [Provider] / [Provider's Complainants Handler] have attempted to obfuscate & frustrate our legitimate claim & expectations. The suggestion the [Airline 1's] credit note with T&Cs, is adequate compensation is evidently flawed given the passage of time & further restrictions on international flights due to the ongoing C19 pandemic. We certainly won't be booking or travelling in the early part of 2021. Our refusal to accept [Airline 1's] credit note has been vindicated with the passage of time. I wonder if we did travel to Mexico via Spain in early part of 2021 would we be covered by travel insurance. I suspect not. The value of the [Airline 1's] Cr note to travel long haul internationally declines each day that we near its expiry dates, i.e. 3rd Jan 2021 & 18th March 2021.

*The **principle of indemnity** clearly states that we should be left in the same situation after our claim, i.e. We paid cash /we should get cash back from our insurers, not a Cr note with restrictive T&Cs. Had we as suggested accepted [Airline 1's] credit note, we would be left with a declining asset as compensation for our claim. We are prudent travellers who take out annual worldwide travel insurance. Notwithstanding this, we were left no better than other [Airline 1] passengers on the flight who didn't have travel insurance & who, presumably, were also offered a [Airline 1] credit note."*

By email dated **27 February 2021**, the First Complainant submits that:

"[Airline 1] never offered us 'a full refund' in lieu of our flight costs. It was not "reasonable" to deny our claim as we were never 'refunded in full.' We were offered a [Airline 1] credit note with restrictive terms & conditions, e.g. book flights before 4th Jan 2021 & complete all flights before 30th April 2021. The passage of time has served to further confirm and vindicate the validity of our claim. It is now clear that any value the credit note had will expire on 30th April 2021. International travel is unlikely to resume in the near future. The Provider's 'impression' that [Airline 1] cancelled our departure flights on 18th March is hard to understand. We made it clear from the outset that, following prevailing DFA advice, we had not commenced the trip from Dublin airport & that our flight departed without us onboard.

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We are at a loss to understand how this 'impression' was formed. We can see that it was used a ruse to mislead us, deny a legitimate claim, deflect responsibility from the Provider to [Airline 1] & send us on a wild goose chase in the hope & expectation that we would tire of the claim."

The Complainants submit that they personally arranged for refunds of other holiday costs and received refunds for "hotel, city tours & Airbnb, thus mitigating our claim. Our only claim on [the Provider] is for the cost of the flights." The Complainants state that they have "a legitimate expectation that [their] holiday costs would be reimbursed." The Complainants want the Provider to refund them a cash or direct payment of €2,343.00 (two thousand three hundred and forty three euros), "an apology confirming the validity of our claim" and "a good will gesture adequately reflecting the error in refusing our claim promptly & the time, effort & stress involved on our part in pursuing our claim."

The Provider's Case

The Complainants hold a multitravel insurance policy with the Provider who has assigned any complaint handling regarding the multitravel insurance to a company ("**Provider's Complaint Handlers**"). The Provider states in its **Final Response Letter** that "as costs are refundable to [the Complainants] by the airline/travel agent" it is not in a position to consider the Complainants' flight ticket costs. The Provider submits that it can "only cover non-refundable amounts" paid, as the Complainants were offered a reimbursement, "albeit via voucher, [the Complainants] are not at a financial loss for the unused flights." The Provider asserts that it is acting within the scope of its **Terms & Conditions**.

By email dated **26 February 2021** from the Provider's Complaint Handlers, it is submitted that:

"The airline offered the customer a full credit in lieu of their flight costs. The customer has therefore been reimbursed in full by way of a voucher. If we paid the claim the customer could still rebook the flights and make use of the original arrangements. Initially we were under the impression the flights had been cancelled by the airline, as many had been. A number of airlines were refusing refunds they were legally obliged to provide and offering credits only so our Claims Team had to push customers back to obtain a refund from the vendor under EU regulation 261. Travel insurance is designed and proceed [sic] to fill in the gaps where existing consumer protections do not apply. We understand from the additional documentation provided that the flights departed and so EU 261 would not apply.

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We submit that it was reasonable to decline the claim on the basis that the customer had been refunded in full by the airline in the form of vouchers and as such had no loss to claim. However our underwriters are sympathetic to customers in this position, as the pandemic has continued to progress, and travel remains uncertain.”

By email dated **5 June 2020**, the Provider’s Complaint Handlers wrote to the Complainant and said:

“I understand your complaint relates to the following areas:

You are not happy that we referred you to the airline for refund of your flights.

Having had an opportunity to review our file notes and the Policy Terms and Conditions, I have completed my investigation and I am now able to present my findings. You initially contacted us online on 21/03/2020 to advise that you were due to fly to Mexico via Madrid with [Airline 1] for a 4.5 weeks holiday on Wed 18 March. All non essential travel was cancelled by the DFA for both Spain & Mexico so you didn't travel as intended. Your travel agent offered you a credit note to the value of the flights, with conditions attached. You do not want to accept this credit note and feel that your [Provider] Multi Trip policy should cover you. You have been able to get refunds in respect of the hotels, Airbnb and tours and want to claim for your unused flights on your travel insurance. Under Section 9 of the Policy Terms and Conditions - Cancellation - What is covered, it states that we will reimburse you non-refundable deposits and amounts you have paid for travel and accommodation you do not use because of your inability to commence travel or complete the trip. Your policy provides cover only where costs are non-refundable. We confirm that, by law, the costs you wish to claim for are actually refundable directly from the airline (under EU261 directive) or your travel agent. As these costs are refundable to you by the airline/travel agent we are not in a position to consider these costs under your policy. You have advised that your travel agent has offered you a credit note that you will not be in a position to use for the foreseeable future. We are aware that some airlines or travel agents are offering refunds by way of a credit voucher, however, if this does not suit you and you prefer full refund, you can insist on this. Given the above I cannot uphold your complaint.”

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By email dated **28 July 2020**, the Provider wrote to the Complainant and said:

"We have reviewed your claim and wish to advise that our original decision remains unchanged. Our assessment is based on applying Multi-trip from [Provider] Healthcare Terms and Conditions of Membership... It is noted you wish to claim for the unused flights within your journey for your cancelled trip to Mexico due to depart 18th March 2020 and return on 19th April 2020, in which the airlines involved provided you with a refund in full by way of travel vouchers/credit note to the value of €2,349. Please note, as per your policy, we can only cover non refundable amounts you have paid, as you have been reimbursed, albeit via voucher, you are not at a financial loss for the unused flights. In addition, as both of your flights with [Airline 2] and [Airline 1] are EU based airlines and are bound by EU law, namely EU261 regulation, they are legally obliged to provide you with a refund for your cancelled trip. We are aware of some airlines seeking to rearrange flights at a later date or offer vouchers to be used against future flights but according to the Regulations, the airline is obliged to provide you with a cash refund should you not wish to accept the vouchers/credit note. The refund should be paid within 7 days of the cancellation. Owing to the volumes of cancellations airlines are dealing with, processing times may be longer. Regrettably, we are therefore unable to allow benefit on this occasion, this decision has been reached after careful consideration of all the information available."

The Provider asserts that it cannot offer a full refund in circumstances where a credit note has been issued by Airline 1 in line with its **Terms & Conditions**. The Provider offers a settlement amount of €1,497.64 (one thousand four hundred and ninety seven euros and sixty four cent) such amount excluding "any costs relating to taxes, air passenger duty and other surcharges levied by the airline or carrier" in line with their **Terms & Conditions**.

The Complaint for Adjudication

The complaint is that the Provider has failed to indemnify the Complainants' insurance policy claim in respect of their unused flight costs incurred on **18 March 2020**, totalling "€2,399.00."

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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 22 November 2021, 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 Provider relies on their **Terms & Conditions (1 April 2020)** where at Section 9 it says that:

"Cancellation cover applies if Your Trip takes place within the Period of Insurance, but prior to departing from the Republic of Ireland You are forced to cancel Your travel plans during Your Period of Insurance because of one of the following changes in circumstances which are beyond Your control and of which You were unaware at the time You booked the Trip and/or purchased this policy. Please see also, the 'Travel Delay' cover (Section 11)."

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Changes in Circumstances...

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“A government directive prohibiting all travel to, or recommending evacuation from the country or area You were planning to visit or were staying in, as a result of natural disasters (such as earthquakes, fires, floods, hurricanes) or epidemic(s).”

What is not covered:

“p) Any costs relating to taxes, air passenger duty and other surcharges levied by the airline or carrier.”

General Exclusions Applying To All Sections...

No Section of this Policy shall apply in respect of:

24) Any costs recoverable from another source.”

By email dated **7 May 2020**, the Complainants’ Travel Agent wrote to the Complainants and said:

“I understand the airline you booked with are offering a credit only refund for your booking. In these extraordinary circumstances, airlines are doing their very best to support all their affected customers. As [Travel Agent] act as an agent, we do not have any jurisdiction over airlines and therefore we can only adhere to the refund policies stipulated by the airlines. A credit refund is currently the only option being offered by the airline for your flights, and therefore that is the only option that we are able to offer you. I have cc-ed the manager of the store, [name] in to the email. Please contact him and he will be able to go through the terms and conditions of this credit and help you with the re-booking process.”

By email dated **7 May 2020**, the Provider wrote to the Complainant and said:

*“Thank you for your e-mail and supporting documentation.
We understand that your airline has cancelled your flight(s).
European Regulation EU261 applies:
To all flights departing the EU
To all flights returning to the EU provided that the airline is based in the EU
Pursuant to Regulation EU261, the airline must reimburse the cost of your flight i.e. refund you. Please note, [Airline 1] and [Airline 2] are both EU based companies and therefore must abide by the above EU regulations. Guidance from the European Commission provides that if only your outbound flight is cancelled, then if the return flight serves you no useful purpose, the airline should refund the cost of the return flight as well.*

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Given the reason for the cancellation will be the restrictions imposed on travel as a result of the coronavirus crisis, this is considered an extraordinary circumstance and the airline is not liable to pay any compensation to you. We are aware of some airlines seeking to rearrange flights at a later date or offer vouchers to be used against future flights but according to the Regulations, the airline is obliged to provide you with a cash refund. The refund should be paid within 7 days of the cancellation. Owing to the volumes of cancellations airlines are dealing with, processing times may be longer.

In relation to the accommodation, you will need to contact them directly to request a refund, if they will not provide you with one, please revert back to us and provide the original booking invoice and the booking terms and conditions so that we may review this aspect."

By email dated **10 May 2020**, the Complainant wrote to the Provider and said:

"I reject and do not accept your response. It is unclear to me whether you have deliberately or inadvertently sought to distort the situation in order to reject my legitimate claim. You are attempting to give me the run around & wear me down in my pursuit. I can assure you that your strategy will not work. [Airline 1] didn't cancel the flights. We followed the clear advice from The Department of Foreign Affairs in the run up to our departure date 18th March to avoid 'any unnecessary travel.' I have no doubt that had we travelled as planned and made any claim for examples: C19 infection, inability to return to Ireland, endless hotel bills while in continuing lockdown in Mexico, sought emergency repatriation etc, you would have dismissed any subsequent claim on the basis that we travelled against the prevailing clear advice. I can only imagine the cost of such a claim. Would we still be living there & not at home in Dublin? No doubt a cost & claim far in excess of this modest air fares claim. We have evidently been reasonable with our claim. We managed to reduce & minimise our claim by getting refunds from Airbnb, hotel & the local Mexican tour company. We are only claiming legitimate air travel costs of this 35 day holiday. [Airline 1's] offer of a credit note is of no interest or value to us. In contrast, you are being unfair and unreasonable. What did we have travel insurance for if not to get refunded following a failed holiday?"

By email dated **19 May 2020**, the Complainant wrote to the Provider and said:

"Please see response from my [Provider] Travel Insurance company who are refusing our claim & redirecting us to you, our Travel Agent.

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They, [Provider Complainant's Handler] acting for [Provider] Travel, are of the clear opinion that we are due a cash refund, not a credit note, from [Airline 1] via our Travel Agent."

By email dated **19 May 2020**, the Provider wrote the Complainant and said:

"Your claim has been reviewed and as per regulations EU261 the airlines are legally bound to provide a refund for your flights as they are both EU based airlines.

As your trip was due to depart after the Irish DFA advise to avoid all non-essential travel, the airline are obligated to refund you the cost of your flights, therefore, please revert back to the airlines for a refund."

By email dated **28 May 2020**, the Provider's Complaint Handlers wrote the Complainant and said:

"Thank you for your communication of 11 May 2020. Please note that complaints in relation to the [Provider] MultiTrip policy are handled by [Provider's Complaint Handlers]. We are sorry to learn of your recent dissatisfaction and write to confirm that we will be conducting a thorough investigation into your concerns. Once we have completed this, we will write to you again, this should be no later than 40 working days from the date of this letter to advise you of our findings. If this investigation has not been completed by then, we will write to inform you why this is and indicate when we will make further contact. Please find enclosed a copy of our internal complaints procedure for your information. Please take time to read this as it explains how we will deal with your complaint and when we will contact you again."

By email dated **14 June 2020**, the Complainant wrote to the Provider and said:

"Our flight wasn't cancelled by [Airline 1]. We abided by the prevailing advice from the Irish Dept of Foreign Affairs prevailing on the day of our departure, 18th March, to "avoid non-essential travel". We were flying via Madrid to Mexico city. Non-essential travel to both Spain & Mexico was to be avoided as per DFA advice. We were very disappointed that we couldn't go on this holiday. But the Covid19 pandemic was becoming a reality just as we were packing our suitcases. [Airline 1] have offered us a credit note with many conditions & limitations but this is of no use to us. Under the concept of subrogation, you can have this credit note, if it is of any value. We paid cash to [Airline 1] & have a legitimate expectation that our travel insurance will provide cover.

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We have mitigated our claim by getting refunds for various prepaid expenses for our 35 day holiday in Mexico, e.g., accommodation in hotel, AirBnB & tours, totalling approx €1700 . We are only claiming for the long haul air fare. No doubt, had we failed to heed the prevailing DFA advice, travelled on 18th March and made any subsequent Covid19 claim, e.g. emergency repatriation, extended stay in Mexico, C19 medical care etc, [the Provider] would say we were wreckless [sic] to travel & therefore invalidated our travel insurance policy. On the contrary, though disappointed that we were not going on holiday, we acted responsibly.

It is [The Provider] who are acting irresponsibly. We have a legitimate & reasonable claim. We have acted responsibly.”

By email dated **18 June 2020**, the First Complainant wrote to the Provider forwarded the below email from his Travel Agent and said:

“Thank you for your email and I am sorry you feel you are caught in a cross fire. As my colleague explained previously, [Travel Agent] act as an agent only and have no jurisdiction over airlines and their policies. If their policy is to refund, then we must provide a refund. If they only offer credit which is the case in this situation then we must also only offer credit and have no power to change that.

From my understanding the flights with [Airline 1] still went ahead. On the 16 of March you cancelled your trip with [name] and confirmed that you accept the credit offered by [Airline 1]. As the flights were not cancelled by [Airline 1], [Airline 1] are not legally obliged to offer a refund following FCO advice. Offering credit and the flexibility to change the dates is a goodwill gesture from [Airline 1] taking into consideration these unprecedented times.”

By email dated **29 July 2020**, the First Complainant wrote to the Provider forwarded the email from the Travel Agent and said:

“Your suggestion that I ‘discuss the case more fully with one of your dedicated claims team’ is somewhere between comical and insulting. What's left to ‘discuss’? What progress would you anticipate? It's certainly unclear to me. I suggest this is a continuation of your strategy to obfuscate, procrastinate and frustrate our legitimate claim. You persist with your erroneous suggestion that I pursue [Airline 1]. [Airline 1] didn't ‘cancel’ our flights. The [Airline 1] flights flew without us onboard as we prudently followed clear DFA advice to avoid non essential travel to Mexico via Spain, i.e a lengthy holiday. I shudder to think about the consequences if we had commenced the holiday on 18th March.

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We sought to mitigate our claim and managed to obtain refunds for all associated holiday expenses except for the [Airline 1] flights. We were confident and had a legitimate expectation that this part of the holiday would be covered by our travel insurance. A [Airline 1] voucher with its associated T&C's & restrictions is of no benefit to us. We have no plans to fly in the short, medium or long term while C19 is still prevalent worldwide. Under the concept of subrogation, you can have the [Airline 1] voucher or pursue [Airline 1] for cash refund if you are so confident of their obligation under European law.

I have refreshed my memory and reviewed [Provider's] Complaints handling procedures, steps 1 to 4, & CPC Code 2012.

Is your email of 28th July your 'Final Response Letter' FRL, or an attempt to further delay? I am confident that our claim is reasonable and legitimate..."

By email dated **23 November 2020**, the Complainants' Travel Agents wrote to the Complainants to say that:

"We can certainly attempt to apply for a tax refund on this booking for you. In terms of the value of that, I cannot confirm how much that will be however, please do bear in mind that this ticket has gone into no show status due to you not taking the first flight.

There are also various taxes that are non-refundable and as the ticket was a non-refundable ticket, it is likely to me much lower than what your insurance has mentioned per ticket. I would guess somewhere in the region of €100- 150 per ticket is what we would get back on your one (max €300 total) as we normally would get between 5-20% per ticket back. It could be more, and it could be less but I won't know until I put in the refund request and 100% of the refund they send to us will be transferred back to you."

By email dated **21 October 2020**, the Complainants' Travel Agent wrote by email to the Complainant to say:

"The inbound flight will have been cancelled due to Coronavirus, but at the time of your outbound flight, it was also still operating as normal...The inbound flights were taken out of the system by the airline when you didn't board the outbound flight, they automatically cancelled the inbound as per their 'no show' policy."

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I note the contents of the Travel Summaries furnished. I note that the *Your Quotation* document says under booking conditions, total cost - €2,349.00. I note the contents of the Department of Foreign Affairs website as per the print out dated **16 March 2020** relating to Mexico which says under *Security Status*, “avoid non-essential travel” and “do not travel” and “in the last days, emergency responses to COVID-19 crisis in many countries in Latin America and the Caribbean have included restrictions of flights from Europe, restrictive new quarantining, arrangements in Central America as well as restrictions affecting admissions of Irish people already travelling in the region to other countries in Latin America...we very strongly advise against any further travel into the region until the Covid-19 crisis has been contained there.” I note the contents of the Department of Foreign Affairs website as per the print out dated **16 March 2020** and relating to Spain which also says under *Security Status*, “avoid non-essential travel” and “do not travel.” By email dated **19 March 2020** the Department of Foreign Affairs contacted the Complainants and said:

“Our citizens registration database indicates that you are travelling in Mexico at the moment. We wish to advise that the latest Travel Advice for the Latin America and the Caribbean region is for non-resident citizens to make arrangements to leave the region and return home as soon as possible. Due to the global COVID -19 situation, many countries are introducing increased travel restrictions, flights are being cancelled at short notice, and routes are being removed. We recommend that you contact your airline or travel agent to make arrangements to leave via viable routes.”

By email dated **26 February 2021** the Provider’s Complaint Handlers, submitted that:

“Therefore, we are willing to settle this claim even though vouchers have been offered in return for a disclaimer signed by the customer, to confirm they will not be using the vouchers and they assign them over to the underwriter.

The Policy excludes: p) Any costs relating to taxes, air passenger duty and other surcharges levied by the airline or carrier.

Therefore, we can cover:

Flight Total Price: € 2,349.00

Less [Complainant’s] Airline Taxes, [Airline 1] € 681.36

Sub Total: €1,667.64

Less Excess €85.00 per person 170.00

Total Settlement offered: €1,497.64

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We feel that is a fair conclusion in the circumstances. If the customer wants to accept the offer, on receipt of the disclaimer, we will settle the claim for this amount. As the taxes are not covered and the policy contains an excess, we cannot settle this amount. The Policy excludes: p) Any costs relating to taxes, air passenger duty and other surcharges levied by the airline or carrier."

The Provider's **Terms & Conditions** clearly state that in the event that its customer is "forced to cancel your travel plans during your period of insurance because of one of the following changes in circumstances which are beyond your control and of which you were unaware at the time you booked the trip ... [such as] A government directive prohibiting all travel to, or recommending evacuation from the country or area You were planning to visit or were staying in, as a result of natural disasters (such as earthquakes, fires, floods, hurricanes) or epidemic(s)."

I am satisfied that the Covid 19 pandemic falls under the *epidemic* category and that government advice was not to travel and so I find that the Complainants were covered under this section of their multi-trip travel insurance with the Provider. I note importantly that the Complainants mitigated their losses and behaved very responsibly by not taking the flight. I note that the evidence submitted regarding the Department of Foreign Affairs travel advice at the relevant time. I note the unforeseen nature of the circumstances that the Complainant's found themselves in. I note that where costs were *recoverable from another source they are not covered* but I do not accept that a credit note for use during the course of the pandemic satisfies the *recoverable* criteria. I accept that insurance companies are entitled to ensure that where a claimant has already benefitted from a claim there is not a double pay out but the refund offered in this matter was not adequate or realisable in the circumstances of a global pandemic where international air travel was halted and attended with considerable risk. I find that the Complainants are entitled to a full refund of all costs from the Provider as covered by their insurance policy less any costs not covered as per the **Terms & Conditions**.

The Complainants made a prudent decision to protect their travel costs through the purchase of insurance. They also made a very prudent and sensible decision to follow Government advice not to travel. They were entitled to have their claim assessed fairly, promptly and reasonably. I am satisfied that the Provider fell far short of offering fair, promptly or reasonable customer service to the Complainants. I also find that the Complainants are entitled to compensation in respect of the Provider's poor customer service and the inconvenience they were put to.

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The Provider's conduct through the assessment of this claim was most unreasonable. It appeared to have a complete inability to listen to or understand the Complainants' predicament. In particular, its consistent insistence that the flight was cancelled, despite being informed numerous times that it was not, was most unreasonable.

For the reasons set out in this Decision, I uphold the complaint and direct the Provider to pay a sum of €3,000 in compensation to the Complainants.

Conclusion

My Decision pursuant to **Section 60(1)** of the **Financial Services and Pensions Ombudsman Act 2017**, is that this complaint is upheld, on the grounds prescribed in **Section 60(2) (b)** that *"the conduct complained of was unreasonable."*

Pursuant to **Section 60(4) and Section 60 (6)** of the **Financial Services and Pensions Ombudsman Act 2017**, I direct the Respondent Provider to make a compensatory payment to the Complainants in the sum of €3,000, to an account of the Complainants' choosing, within a period of 35 days of the nomination of account details by the Complainants to the Provider.

I also direct that interest is to be paid by the Provider on the said compensatory payment, at the rate referred to in **Section 22** of the **Courts Act 1981**, if the amount is not paid to the said account, within that period.

The Provider is also required to comply with **Section 60(8)(b)** of the **Financial Services and Pensions Ombudsman Act 2017**.

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.



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FINANCIAL SERVICES AND PENSIONS OMBUDSMAN

14 December 2021

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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.