

## **The complaint**

Miss H and Mr H complain that Society of Lloyd's declined their travel insurance policy claim. My references to Society of Lloyd's include its agents.

## **What happened**

Miss H and Mr H were insured by an annual multi-trip group travel policy insurance policy. The policy covered from 1 September 2021 to 31 August 2022. Society of Lloyd's was the insurer.

In May 2022 Miss H and Mr H were on a flight from the UK to travel abroad. They say the flight was delayed over 18 hours as while in the air their plane was diverted to a different country due to industrial action taken by air traffic control in the intended destination country. Miss H and Mr H had to stay in the other country overnight and the next day they continued their journey to their intended destination on the same plane with the same flight number. They got to the intended destination 18 hours later than planned.

Miss H and Mr H claimed on the policy under the 'Travel Delay Inconvenience Benefit' cover.

Society of Lloyd's declined the claim. It said the policy only covered delays in the departure of the flight and Miss H and Mr H's flight had departed the UK only 17 minutes late. Miss H and Mr H had been delayed in their arrival to the destination country due to a delay on route, which wasn't covered by the policy terms.

Miss H and Mr H complained to us. In summary they said Society of Lloyd's unfairly declined the claim as:

- The name of the cover option was 'Travel Delay Inconvenience Benefit' and a reasonable consumer would expect their 18 hour delay to be covered under the option. Otherwise the option was misnamed.
- The Insurance Product Information Document (IPID) for the policy hadn't made clear that cover for delay only related to delay at departure.

Miss H and Mr H want Society of Lloyd's to pay their claim and compensation for the time they'd spent in making the complaint. And as Society of Lloyd's thought the policy only covered delay in departure they wanted it to make the name of the benefit clearer in the policy.

Our investigator said Society of Lloyd's unfairly declined the claim and recommended it pay the claim plus interest.

Society of Lloyd's disagreed and wanted an ombudsman's decision. It referred to an ombudsman's decision which it said supported that it shouldn't have to pay the claim.

Miss H and Mr H accepted our investigator's recommendation to pay the claim. But they said if Society of Lloyd's wanted an ombudsman's decision they wanted me to consider their request for compensation for their initial and further inconvenience in making the complaint. They referred to ombudsmen decisions which they said supported that Society of Lloyd's should pay the claim.

## What I provisionally decided – and why

I made a provisional decision that I intended to not uphold the complaint. I said:

‘The relevant regulator’s rules say that insurers must handle claims promptly and fairly. And they mustn’t turn down claims unreasonably.

Both parties have referred to ombudsmen decisions which they think support their point of view, but we consider each complaint on its own individual circumstances and our approach as to what’s fair and reasonable can evolve over time.

I’m intending to not uphold this complaint, I’ll explain why.

The policy says under the heading ‘Travel Delay Inconvenience Benefit’:

*‘In the event that the Insured Person is delayed because of the late departure of an aircraft ...in which he had previously booked to travel occurring as the result of any of the following contingencies:*

*Strike, industrial action...provided always that such contingency had not occurred, commenced or been announced before the booking was made in respect of the flight, voyage or journey thus affected then to pay as follows:*

*(i) Outward journey at commencement of the Period of Travel*

*£50 for the first completed 8 hour period that transport departure is delayed and £50 for each subsequent completed hour, up to a maximum of £250 in all.*

*(ii) All subsequent journeys during the Period of Travel*

*Payment as in Subsection 2(b)(i), up to a maximum of £150 in all’.*

Under the policy terms the ‘Travel Delay Inconvenience Benefit’ is payable only if the flight is delayed at departure for 8 hours or more. Miss H and Mr H’s flight left the UK only 17 minutes late. They arrived 18 hours late at their intended destination because their plane was diverted during the flight, not because of flight delay at departure. So Miss H and Mr H’s claim for benefit isn’t covered under the policy terms.

I’ve also considered what’s fair and reasonable in all the circumstances. Miss H and Mr H were inconvenienced by their flight being diverted on route and arriving late at their holiday destination. But I don’t think that’s enough for me to say it’s fair and reasonable for Society of Lloyd’s to pay the claim for benefit irrespective of the policy terms.

Miss H and Mr H say the IPID doesn’t highlight that the benefit was only available for delay at departure, but I don’t think the IPID needed to do so as I don’t think it’s an unusual policy term. The IPID I’ve seen doesn’t mention the travel delay benefit so there was no inconsistency between the IPID and the policy terms that might have mis-led Miss H and Mr H about the benefit.

Miss H and Mr H say the name of benefit, ‘Travel Delay Inconvenience Benefit’, doesn’t show the benefit is only for delayed departure and Society of Lloyd’s should change the name of the benefit. I don’t have the statutory power to require a business to amend its policy wording. But anyway the important issue is whether the policy wording is clear the benefit was for delayed departure only and I think it is clear.

As Miss H and Mr H’s claim for travel delay benefit isn’t covered by the policy terms, and I don’t think there’s any basis for me to say it’s fair and reasonable for the claim to be covered, I think Society of Lloyd’s reasonably declined the claim.

There’s no basis for me to award any compensation for Miss H and Mr H’s inconvenience in making this complaint. Society of Lloyd’s decision to decline the claim was reasonable.

I note the policy does cover certain specified costs for a 'change of itinerary', subject to the policy terms and conditions. Miss H and Mr H might want to make a claim for any relevant expenses their change of itinerary led to for Society of Lloyd's to assess in line with the policy terms and conditions. If such a claim is made and the parties can't reach agreement on that claim Miss H and Mr H can make a separate complaint to Society of Lloyd's on that matter and ultimately a separate complaint to us'.

### **Responses to my provisional decision**

Society of Lloyd's said it didn't have anything to add. Miss H and Mr H didn't agree with my provisional decision. They said some important facts had been omitted and some of the claim specifics misstated, in summary these included:

- Society of Lloyd's had said that the policy only covered delays in the departure of the flight and Miss H and Mr H's flight had departed the UK only 17 minutes late. But the policy terms didn't state that the departure had to be from the UK or the starting airport of a journey so they thought it unfair for Society of Lloyd's to include the words 'the UK' as a reason for declining the claim.
- There's no requirement in the policy wording that the departure airport must be the same as the scheduled airport or in the UK. The flight to their scheduled destination departed over 12 hours late. They sent an email from the holiday provider which they said showed their departure was delayed by 26 hours and 14 minutes and they queried whether I thought the information the holiday provider had given was wrong.
- They didn't think I'd given enough attention to the examples of previous decisions where a complaint had been upheld in situations which they thought were similar to their situation. They noted that we consider each complaint on its own specific circumstances but they thought decisions should either be consistent or it explained why their complaint wasn't upheld.
- If Society of Lloyd's wanted to exclude a claim in their circumstances the previous cases they referred to said the policy had to make that clear and their policy didn't. If they had known there was a gap in cover they would have considered buying an alternative policy.
- As I and the investigator had reached different conclusions the policy was unclear.
- They'd been financially disadvantaged by the title of the 'Travel Delay Inconvenience Benefit' which was misleading given the reasons for the claim rejection. I'd acknowledged that they were delayed by over 12 hours and inconvenienced. They thought most people would expect their situation to be covered by a benefit with that title.

### **What I've decided – and why**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I've considered all the points Miss H and Mr H have made but I won't address all their points or answer all the questions they've asked in my findings. I'll focus on the reasons why I've made my decision and the key points which I think are relevant to the outcome of this complaint.

Miss H and Mr H's response to my provisional decision hasn't changed my mind. I still think Society of Lloyd's fairly and reasonably declined the claim.

The policy provides cover *'In the event that the Insured Person is delayed because of the late departure of an aircraft'* for the periods and for the reasons the policy wording lists, as I've detailed above.

Miss H and Mr H's scheduled and actual flight departure was from the UK. Miss H and Mr H haven't disputed Society of Lloyd's evidence that the flight departed from the UK about 17 minutes late. So I'm satisfied that Miss H and Mr H's flight departed from the scheduled airport for departure in the UK more or less on time. No stops on route were scheduled, the flight should have been a direct flight to Miss H and Mr H's intended destination.

The delay times that Miss H and Mr H have given are due to the flight being re-routed to another country where they stayed overnight and continued their journey the next day.

The email from the holiday provider says:

*'Departure Airport – London Gatwick (LGW)*

*Arrival Airport – (airport at intended destination )*

*Firstly, we would like to apologise for the delay to your flight...*

*If you are covered by your holiday insurance and would like to pursue a claim, the following information will help you.*

*Scheduled Time of Departure 09:50 GMT 12th May 2022*

*Scheduled Time of Arrival 19:35 GMT 12th May 2022*

*Actual Time of Departure 12:04 GMT 13th May 2022*

*Actual Time of Arrival 13:53 GMT 13th May 2022*

*Reason for Delay*

*Due to Air space closure over (intended destination )your flight was unable to land, the flight was diverted to (airport in the other country).*

*Your flight operated at the earliest opportunity the following day.*

*Total Length of Delay on arrival 18 hours 18 minutes.*

*You will have noticed the times given above are in Greenwich Mean Time. Don't worry if these don't match the local times - we display times like this for insurance purposes'.*

The holiday provider didn't say the departure was delayed by 26 hours and 14 minutes, as Miss H and Mr H suggest. It says that the 'Total Length of Delay on arrival was 18 hours 18 minutes'.

While the holiday provider says that the 'Actual Time of Departure' was over 24 hours later than the 'Scheduled Time of Departure' that's not correct as the email also says that the 'Departure Airport' was London Gatwick and Miss H and Mr H didn't depart from that airport over 24 hours later than the 'Scheduled Time of Departure'. Miss H and Mr H resumed their journey after the unscheduled stopover in the other country over 24 hours after they departed from the 'Departure Airport' in the UK on time.

I think Society of Lloyd's fairly and reasonably considered that the scheduled and actual departing airport was in the UK, as referred to by the holiday provider. The delay didn't happen because of that flight's late departure.

In fact the delay didn't happen because of the flight's late departure from any airport. The delay happened because the flight had to be re-routed during the flight which resulted in delays. The policy terms and conditions don't cover that situation.

I don't think the policy needs to specifically say that the circumstances of Miss H and Mr H's claim are excluded. Their unfortunate circumstances are comparatively unusual. And anyway the policy wording is clear that cover is for delay due to the late departure of an aircraft, and that's not why Miss H and Mr H were delayed.

Miss H and Mr H have commented about the previous ombudsmen decisions they think support their complaint. But it's important to note that we decide cases on their individual circumstances and small changes to circumstances, and the specific wording of the policy terms, can result in a different outcome. Also our decisions don't generally set precedents and as I've said our approach to what's fair and reasonable can evolve over time.

I'm not persuaded that Miss H and Mr H would have bought a different policy from this group policy if they had known the situation they found themselves in wouldn't be covered by the 'Travel Delay Inconvenience Benefit'. I think it's more likely than not that they wouldn't have chosen to buy another policy for their trip just on the unlikely basis that their flight would be re-routed during the flight and they would have to stopover the night in another country.

Although I've reached a different conclusion than our investigator on the complaint I don't think that has to mean the relevant policy wording is unclear. When a complaint is referred to me for a decision I look at all details of the complaint afresh and I may come to a different conclusion than the investigator.

Miss H and Mr H say they've been financially disadvantaged by the title of the 'Travel Delay Inconvenience Benefit' and the title is misleading. I think an insurer can reasonably consider that a consumer won't buy travel insurance or an option under the insurance just on the title of one section of the policy. I think the policy wording is clear that benefit was for if Miss H and Mr H were delayed because of the late departure of an aircraft, and that's not why they were delayed.

For the reasons I've given in my provisional findings and above I think that Society of Lloyd's fairly and reasonably declined Miss H and Mr H claim for the 'Travel Delay Inconvenience Benefit' and that there's no basis for me to award any compensation for Miss H and Mr H's inconvenience in making this complaint.

I mentioned in my provisional findings above that the policy does cover certain specified costs for a 'change of itinerary', subject to the policy terms and conditions so Miss H and Mr H might want to make a claim for any relevant expenses due to their change of itinerary for Society of Lloyd's to assess.

Also, if Miss H and Mr H were on a package holiday the holiday provider has specified responsibilities to them under the Package Travel and Linked Travel Arrangements Regulations 2018 so Miss H and Mr H may want to look into that if they've not already done so.

### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H and Mr H to accept or reject my decision before 3 August 2023.

Nicola Sisk  
**Ombudsman**