

The complaint

Mr I complains about Big Warranties Ltd's (BWL) refusal to provide a refund when he cancelled the renewal under his household warranty.

What happened

Mr I says his policy was set up in November 2020 to cover two gas hobs. The policy renewed 12 months later and a payment of £51.02 was taken. Mr I contacted BWL to say he had asked for the renewal to be cancelled earlier that same day. He then asked for a refund but was told that wasn't possible.

BWL says Mr I was made aware when he took out the policy that it would contact him 21 days prior to the policy renewal via email. If he wanted to cancel the policy and stop it renewing, he should make contact within that period.

Mr I referred to the 14-day cooling off period the policy allowed. BWL says this is applicable for the first 14 days after the policy start date but isn't applicable from subsequent renewal dates. Mr I didn't think BWL was being fair and referred his complaint to our service.

Our investigator upheld his complaint. She says the policy terms state Mr I can cancel within 14 days of receiving policy documents. They don't say this isn't applicable to renewals. When the new policy period began in November 2021, a new set of policy documents should've been sent. Our investigator thought this meant Mr I had cancelled his policy within the 14-day cooling off period allowed by the terms.

BWL disagreed. It says the cooling off period relates to the date the policy documents were sent in November 2020. This means Mr I's cancellation request was a year too late. Our investigator responded to say she was maintaining her decision. BWL says the Financial Conduct Authority's (FCA) handbook on 'the right to cancel' supports its position. It says this allows 14 days to cancel from the 'conclusion of the contract', which it maintains was in November 2020.

Our investigator didn't change her decision so BWL asked for an ombudsman to consider Mr I's complaint.

It's been passed to me to decide.

I issued a provisional decision in April 2022 explaining that I was intending to uphold Mr I's complaint. Here's what I said:

provisional findings

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

Firstly, I note from its final response to Mr I's complaint, that BWL says no refunds are due and it won't be offering any redress. But in its submission to our service it says Mr I is due a

pro-rata refund minus an administration fee. I can't see that this was explained to Mr I although this condition is set out on page nine of his policy terms. However, this doesn't impact on my findings as I'll explain.

I have read through the policy booklet in full to understand what's expected in these circumstances. The terms say:

"If You cancel this Policy within 14 calendar days of receiving policy documents. You will receive a full refund of any Premiums You have paid to Us."

BWL says that the policy documents were sent in November 2020 when the policy was originally agreed.

If this is the case, Mr I's request to cancel in November 2021 was 12 months too late.

I have thought about BWL's reference to the FCA's handbook and what this says about cancelling an insurance policy. The FCA has set out rules and guidance for insurers in the 'Insurance Conduct of Business Sourcebook' (ICOBS). ICOBS 7.1 'The right to cancel' says:

*"A consumer has a right to cancel, without penalty and without giving any reason, within:
2) 14 days for any other contract of insurance or distance contract."*

And:

"Start of the cancellation period

The cancellation period begins either:

(1) from the day of the conclusion of the contract, except in respect of a pure protection contract where the time limit begins when the customer is informed that the contract has been concluded; or

(2) from the day on which the consumer receives the contractual terms and conditions and any other pre-contractual information required under this sourcebook, if that is later than the date referred to above."

BWL says the terms and conditions were sent to Mr I the day after his policy was agreed – the day of conclusion of the contract - in November 2020. So, according to BWL his request to cancel in November 2021 is outside the 14-day cancellation period set out here, as well.

I acknowledge BWL's comments, but I don't agree that cancellation rights don't apply in these circumstances. When the policy renewed in 2021 this was the start of a new contract. The policy has a new 12-month term and a new premium which had increased from £33.92 to £51.02. I accept that BWL sent an email in October 2021 informing Mr I his policy will renew within the next 30 days - and provided its contact details should Mr I's circumstances have changed. But I don't think giving him notice of the renewal, supersedes Mr I's right to cancel under the ICOBS rules.

The ICOBS rules allowed Mr I to exercise his right to cancel within 14 days of the conclusion of the new contract. A new contract was concluded in November 2021 and Mr I contacted BWL well within 14 days. So, I think it was reasonable for him to expect a full refund of the premium.

In considering all of this, I don't think BWL treated Mr I fairly and it should refund the

premium it collected in full.

I said I was intending to uphold this complaint and BIG Warranties Ltd should:

- refund the full premium paid by Mr I for £51.02 plus 8% simple interest from the date the payment was taken until it is refunded.

I asked both parties to send me any further comments and information they might want me to consider before I reached a final decision.

BWL responded to say that Mr I's renewal policy is not a new contract. It says this is an extension of an existing contract. Whilst the premium has increased, the level of cover and the terms of the policy have not changed, and therefore, this should not be classed as a new contract.

BWL says that Mr I pays quarterly and a pro-rata refund would not be due. It says the terms regarding this can be found within the final response letter that it sent to Mr I.

Mr I didn't provide any further comments or information in response to my provisional decision.

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 acknowledge BWL's comments that Mr I's renewal is not a new contract but rather it is an extension of an existing contract. I have thought about its view that a cancellation period didn't apply with respect to the ICOBS rules because of this. But I don't agree.

The policy was originally put into force in November 2020 for a period of 12 months. This period ended in November 2021, at which time a new contract period came into force, with a higher premium. I can understand BWL's point. The cover provided by the policy was effectively the same after renewal as it was before. And BWL had given notice of the renewal to Mr I in advance with instructions on how to cancel.

However, I don't think this means that Mr I wasn't able to exercise his right to cancel the policy, within the 14-day period allowed under the ICOBS rules or that the policy terms supersede this. A new contract period began in November 2021. I don't think BWL has shown that because the cover provided was essentially the same, the new policy entered into in November 2021 didn't constitute a new contract. Because of this BWL's further comments haven't persuaded me that I should change my decision.

BWL says Mr I pays quarterly, and a pro-rata refund is not due. It refers to the policy terms in support of this point.

I have read Mr I's policy terms. The relevant excerpt, which BWL included in its final response letter to Mr I, says:

"Cancellation of Monthly and Quarterly Policies

You will not be charged any more Monthly or Quarterly Premium amounts but You will not receive a refund of any Premium You have paid to Us."

I agree that the policy terms do not provide for a premium refund in these circumstances. But

the ICOBS rules do allow Mr I to cancel the policy when he did. Mr I cancelled on the same day the policy renewed. The ICOBS rules say:

“(1) When a consumer exercises the right to cancel he may only be required to pay, without any undue delay, for the service actually provided by the firm in accordance with the contract.

(2) The amount payable must not:

(a) exceed an amount which is in proportion to the extent of the service already provided in comparison with the full coverage of the contract; and

(b) in any case be such that it could be construed as a penalty.”

As Mr I cancelled his policy on the morning of the renewal, under the ICOBS rules, I think this reasonably means he's entitled to a refund of the premium that was taken. Because of this I'm not persuaded that I need to change my decision, and it's fair that BWL should return Mr I's premium to him plus 8% simple interest.

My final decision

For the reasons I've explained above, and in my provisional decision, I uphold Mr I's complaint. BIG Warranties Ltd should:

- refund the full premium paid by Mr I for £51.02 plus 8% simple interest from the date the payment was taken until it is refunded.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr I to accept or reject my decision before 14 July 2022.

Mike Waldron
Ombudsman