

The complaint

Mr F has complained about the fees he was charged by his broker Acorn Insurance & Financial Services Ltd (Acorn) when he cancelled his motor insurance policy.

What happened

I issued a provisional decision on this complaint in August this year. An extract from that decision follows:

“Mr F took the policy out through a sub- broker who I will refer to as Q who in turn arranged the policy through Acorn.

Mr F initially took the policy out for a taxi business but a few days later he notified Q that he wanted to change his cover to social, domestic and pleasure (SDP). This resulted in his yearly premium being reduced from around £1,100 to approximately half that. A few months later, Mr F no longer needed the policy and cancelled it. He received a £126.40 refund which he said was too low due to various cancellation charges.

Mr F complained to Q and to Acorn. He said that he had been charged two cancellation fees which he didn't think was fair- £100 by Acorn and £50 by Q. He also said Acorn charged an additional £85 fee which he found excessive. He added that he had received no written confirmation of these charges and doesn't recall being made aware of them when he took the policy out over the phone. He added that the law says that charges should be reasonable and reflect the true costs of the administration.

Q didn't think it had done anything wrong but agreed waive the £50 cancellation fee it had charged as a goodwill gesture. This increased Mr F's refund to £176.40. Acorn didn't uphold the complaint. It said the charges it had charged were fair and in line with its terms which are available on its website. Acorn said that it specifically requires Q to make policyholders aware of these charges as well as the fact that they can be found on Acorn's website. It said the £85 “new business fee” is charged in order for it to service the policy from inception onwards and would include the cost of calls, arranging additional or refunded premiums etc. It said there is also a £25 administration fee each time there is an amendment.

Mr F didn't agree with Acorn's response and complained to us. One of our investigators reviewed the complaint but he didn't think Acorn had done anything wrong. Mr F disagreed and repeated that he had been charged two cancellation fees which was unfair and also that he wasn't made aware of the charges at any point.

As Mr F didn't agree with our investigator's view, the complaint has been passed to me for a decision.

What I've provisionally decided and why

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

Mr F took the policy out through Q over the telephone. Acorn said that Q was responsible for informing Mr F of Acorn's charges when he was taking his policy out. Q was therefore acting as Acorn's agent in that instance. Nevertheless, Q also charged fees separately to Acorn's fees, which Acorn isn't responsible for. As I am only looking at Acorn's actions in this decision, I will not look at whether the fees charged by Q were reasonable.

Clarification of the charges

It wasn't clear to me what fees Mr F was charged at different points, so I asked Q and Acorn for some further clarification. Q responded but Acorn hasn't yet, but as I am issuing a provisional decision, Acorn will have a further chance to respond.

Mr F took the policy out on 17 April 2021. We were told the policy cost £1,083.02 but with Q's broker charge of £108.49 the total came to £1,191.51. Mr F changed the policy cover to SDP on 21 April 2021, so I asked Q if he'd had a chance to pay the full amount before his premium was halved.

Q responded to say that the £1,191.51 included tax as well as its "broker placement charge" of £108.49. It added that when Mr F changed the cover a few days later, the premium was halved from £1,083.02 to £541.51 (so the £108.49 was taken out before the new premium was calculated). There was then a new £108.49 fee charged by Q which brought the total due to £650. Mr F paid a £195 deposit and took out a credit agreement for the £455 balance. Q also agreed that the total Mr F paid was, therefore, £672.76 as he was paying 5% interest due to the credit agreement. Q said it hadn't charged an administration fee for changing the cover from a taxi policy to SDP.

I pointed out that the £1,083.02 also included a £85 administration fee. Q said this was charged by Acorn and so it would be for Acorn to confirm. Q added that the policy was net rated meaning that it didn't earn any commission from the insurer. It said that all the charges were disclosed to Mr F at inception.

From Q's response it seems that the only payment Mr F made was for £672.76 on 21 April. This is something I'd like Acorn to confirm when it responds to this provisional decision.

When Mr F cancelled the policy on 9 September, he was charged an £85 fee (the new business fee) plus a £100 cancellation fee by Acorn. So, he ended up with a refund of £176 after Q waived its £50 cancellation fee. Q agreed that it had waived the £50 cancellation charge but said the policy was cancelled on 7 September.

Q said when Mr F changed the cover to SDP it simply halved his premium to £541.51. As I said above, the £1,083.02 quote already included Acorn's £85 set up fee. So that fee was halved too. Therefore, it seems to me that Mr F was charged £42.5 (£85 divided by two) by Acorn in April. Plus £108.49 (by Q) on 21 April and, in September, the £100 cancellation fee and £85 fee in September (by Acorn). If this isn't the case Acorn should clarify when it responds to this decision.

Information provided to Mr F

Acorn said it charged a £100 cancellation fee as per its terms as well as an £85 non-refundable set up fee. Acorn also said there was a specific requirement on Q to point Mr F to these charges which can also be found on Acorn's website.

Mr F said he wasn't informed of the charges when he took the policy out. So I listened to the sales call. During the call Q said to Mr F that the insurer charges a non-refundable £100 cancellation fee and a non-refundable set up fee of £85. Though these charges were in fact Acorn's and not the insurer's I don't think the impact on Mr F is any different and I note that the insurer itself didn't charge any additional fees when the policy was cancelled.

I have also looked at Acorn's website and it says that a "new business fee" of £85 is charged for annual policies. The fee is the same for private and for taxi policies. The website also says there is a £25 "adjustment charge" for annual policies and a £100 cancellation charge on all policy types.

So, Mr F was made aware of these charges, apart from the £25 charge, when he took the policy out.

Were Acorn's charges fair?

As I said above, it seems the £85 fee was charged twice by Acorn though the first time it was halved when the whole premium was halved. Neither Q during the call nor Acorn's website mention that the £85 fee (or half of it) would be charged more than once during the life of the policy. So I don't think it's fair for Acorn to charge the £85 fee more than once.

Our approach can differ depending on whether we are dealing with commercial or individual consumers. And as our investigator pointed out, laws or regulations that would protect individual consumers don't apply to commercial ones. I have, therefore, thought about whether Mr F should be treated as an individual or a commercial consumer in this case.

Mr F's policy started as a taxi policy but was changed to a private one within a few days of its inception. In these very specific circumstances, I therefore think it would be fair and reasonable for Mr F to be treated mainly as an individual consumer rather than a commercial one. And at the time when he cancelled the policy he certainly was, in my opinion, an individual consumer cancelling a private policy.

According to its website, Acorn's charges are the same for private and commercial policies. And as I said above, the £100 and £85 fees were brought to Mr F's attention when he took the policy out. But this doesn't necessarily mean that it would be fair to charge them.

Our approach when determining whether charges are fair or not is to decide whether they were representative of the work undertaken. ICOBS 7 (ICOBS is the insurance Conduct of Business Sourcebook found in the FCA Handbook) says that an administration fee should be proportionate to the service provided with no element of profit. Though ICOBS only refers to charges within the cooling off period of a policy our general approach is that it is fair to apply this rationale for the whole term of the policy.

I think a total fee of £185 (even after deducting the extra £42.5 charge) in these circumstances seems high, particularly for what was mainly a private policy. Acorn said the £85 is for calls, arranging refunds etc. Bearing in mind that most of the arrangements were done via a sub broker who Mr F was liaising with instead of Acorn, I haven't seen any evidence that they should apply in full in this case. For this reason I think it's fair and reasonable that Acorn charges £125 in total in this case. I have based this on the £100 cancellation fee (bearing in mind this was the only cancellation fee charged after Q waived its fee) and the £25 fee Acorn normally charges for policy adjustments to account for Mr F changing the cover to SDP. So, I intend to require Acorn to refund Mr F anything he was charged above £125.

My provisional decision

For the reasons above, I am considering upholding this complaint and requiring Acorn Insurance & Financial Services Ltd to issue a refund to Mr F so that he is only charged £125 by it. Acorn Insurance & Financial Services Ltd should also add 8% simple interest per year to the refund it issues from the date Mr F made the payment to the date he receives his refund."

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.

Acorn responded to my provisional decision with the following:

- The policy was transacted from a broker to broker distribution channel, so it had no direct dealings with Mr F at any point.
- For this product it charges an £85 new business fee and a £100 cancellation fee. Q would have been aware of these charges. Acorn added that it makes it clear to the brokers it works with that in order to trade with it, the brokers are responsible for ensuring that their customers are informed of all applicable fees.
- The policy was inceptioned on 17 April 2021 for a total premium of £1,083.02 which included its £85 fee. The policy started as a taxi policy but was later changed to SDP. Due to the effects the pandemic was having on its taxi customers, Acorn introduced a series of measures to enable them to either suspend their policies or change them to SDP without having to cancel the existing policy.
- The cover was changed to SDP without the need to cancel the policy and the occupation for this risk remained as that of a "taxi driver". It did not make any charge for this amendment. The change of use generated a return premium of £541.51 making the revised annual premium £541.51.
- It did not collect any monies directly from Mr F. But it received £541.51 from Q on 13 May 2021.
- Later on, it received instructions to cancel the policy. It calculated the pro-rata premium to be refunded to Mr F and retained a cancellation fee of £100. Mr F's occupation remained as "taxi driver" and in any event the charge would have been the same regardless of whether Mr F was an individual consumer or a commercial one.
- Throughout the term of this policy it only ever charged two administration fees, one for £85 (on 17 April 2021) and one for £100 (on 7 September 2021). There was no additional £85 charged on 9 September 2021 and there was no £42.50 charged by Acorn when the policy use was changed to SDP.
- The £85 and £100 fees were charged fairly and Mr F was made aware of these by Q.

I went back to Acorn for some further clarification. I said it had told us that the original £1,083.02 premium included the £85 fee but also that it had deducted the £85 fee from the premium it had refunded to Mr F when he cancelled his policy. This is why I thought the £85 fee had been charged twice. Acorn apologised for any confusion and said that when it calculates the pure premium return it first deducts the £85 fee which is included in the original premium price.

Mr F also responded to my provisional decision. He said he is not aware of any other walk of life where he would be charged twice for the same thing.

In my provisional decision I asked Acorn to confirm whether the only payment Mr F made was the £672.76 payment it made to Q. Acorn said it didn't collect any monies from Mr F but it received £541.51 from Q. I think Acorn's response confirms what I said in my provisional decision that Mr F only made one payment and this was for £672.76.

Acorn has said that it had no dealings with Mr F at any point which ties in with what I said in my provisional decision when I referred to the fact that I thought the £185 charge was high bearing in mind Acorn did not deal with Mr F at any point.

I appreciate that Acorn says it took measures during the pandemic to assist its customers. This is something the Financial Conduct Authority was encouraging firms to do at the time. Acorn said that the cover was changed over to SDP, nevertheless, Mr F's occupation remained as "taxi driver". I appreciate that was the case, nevertheless, it was clear that Mr F didn't intend to use his car for that purpose and he also changed the policy to an SDP one very early on in the policy term. And that is why I think, in these very specific circumstances, Acorn should treat Mr F as an individual rather than a commercial customer. Acorn said that the charges would have been the same regardless, but for the reasons I gave in my provisional decision, I think an overall charge of £185 for this policy was high. Especially as Q had its own fees and also as Acorn has, by its own admission, had no dealings with Mr F.

Acorn has said that the £85 fee was charged only once, when the policy was taken out, and that it was deducted from the £541.51 premium when Mr F's refund was calculated. I understand what Acorn is saying but in this case the original premium, which was £1,083.02 and included the £85 fee, was simply halved when Mr F changed the policy to an SDP one. That is why I said I thought Mr F was, in fact, charged £42.50. So when Acorn deducted the full £85 fee from the £541.02 premium in order to calculate Mr F's refund this left a "pure premium" of £456.51 instead of £499.01 (£1,083.02 minus £85 divided by two).

In any case, as I said in my provisional decision, I think a fair overall charge in Mr F's case would have been £125. So I still think Acorn should refund Mr F anything he was charged by it over £125 in respect of cancellation and new business fees.

The rest of my findings remain the same as they were in my provisional decision.

Putting things right

For the reasons above, I am upholding this complaint and requiring Acorn Insurance & Financial Services Ltd to issue a refund to Mr F so that he is only charged £125 by it in relation to its cancellation and new business fee. Acorn Insurance & Financial Services Ltd should also add 8% simple interest per year to the refund it issues from the date Mr F made the payment to the date he receives his refund.

My final decision

I am upholding Mr F's complaint against Acorn Insurance & Financial Services Ltd and I direct it to put things right in the way I've outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 13 October 2022.

Anastasia Serdari
Ombudsman