

The complaint

Mr D complains that Admiral Insurance Company Limited (Admiral) charged a fee when cancelling within 14-days of agreeing his motor insurance policy. He doesn't think he should be charged within this period.

What happened

Mr D says he agreed to a policy with Admiral. However, he changed his mind within 14 days and contacted the business again to cancel. His policy was cancelled but he was charged a £25 administration fee.

Admiral says an administration fee is chargeable when a policy is cancelled within 14 days and that this is explained within the policy terms. It says this fee accounts for the administration work when setting up the policy. Admiral says it hasn't made an error in charging this fee.

Mr D says UK consumer law allows him to cancel his policy within 14 days without incurring a charge. So, he asked our service to look into this for him. Our investigator didn't uphold his complaint. She says Admiral is able to charge a cancellation fee within a cooling off period. Mr D didn't think this was fair and asked for an ombudsman to consider his complaint.

It has been passed to me to decide.

I issued a provisional decision in September 2022 explaining that I was intending to uphold Mr D'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.

Having done so I have decided to uphold Mr D's complaint. Let me explain.

The regulations that apply to this complaint are set out in the Financial Conduct Authorities (FCA) Insurance Conduct of Business Sourcebook (ICOBS).

ICOBS 7.1.1 says a consumer has a right to cancel, without penalty and without giving any reason, certain contracts within 14 days. This is called the 'right to cancel'. I'm satisfied the right to cancel applies to the contract of insurance Mr D had with Admiral. And that he exercised his right to cancel within the first 14 days of taking it out.

ICOBS 7.2 deals with payment by a consumer for the service provided before cancellation. A consumer may be required to pay an amount on cancellation including any sums that a firm has reasonably incurred in concluding the contract. However, this shouldn't include any element of profit. The amount payable must not:

"exceed an amount which is in proportion to the extent of the service already provided in

comparison with the full cover of the contract; and in any case be such that it could be construed as a penalty”.

Also, of relevance here is ICOBS 7.2.2 (3), which says:

“A firm must not require a consumer to pay any amount:

(a) unless it can prove that the consumer was duly informed about the amount payable”

Admiral says a £25 administration fee is chargeable when a policy terminates within the 14-day cooling off period. In its final complaint response to Mr D it refers to its website where this information is provided in more detail.

I've checked online to see what other insurers charge as an administration fee for cancelling within 14 days. Based on what I've seen I don't think Admiral's fee is unreasonable to cover its administration costs. But it can only charge this fee if it can show that Mr D was duly informed about it when he agreed to take out the policy.

I asked Admiral to provide evidence that shows Mr D was told a charge applied before he agreed to take the policy. As this was done via an online application, I suggested this could be done by providing screenshots demonstrating the customer journey Mr D followed. I said this needed to show that Mr D was duly informed of the charge in order for the cancellation fee to be payable.

Admiral responded providing a screenshot from its website that it says Mr D would have been directed to. This shows the cancellation charges if this happens within 14 days of the policy being taken out. I can see this says a charge of £25 is applicable in Mr D's circumstances if the policy is cancelled within 14 days.

However, Admiral hasn't shown the customer journey Mr D followed directed him to read this information. It hasn't shown that he was asked to read and confirm his understanding before he proceeded to purchase the policy. For example, by checking a box.

In the absence of clear evidence from Admiral to demonstrate Mr D was duly informed of the £25 cancellation fee, I can't fairly agree that it was reasonable for it to charge this amount. To put things right Admiral Insurance Company Limited should refund the £25 charge plus 8% simple interest per annum from the date the fee was applied until the refund is paid.

I said I was intending to uphold Mr D's complaint and Admiral Insurance Company Limited should:

- refund the £25 cancellation charge plus 8% simple interest from the date the charge was paid until the refund is provided. *If Admiral considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr D how much it's taken off. It should also give Mr D a certificate showing this if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.*

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

Admiral didn't respond with any further comments or information.

Mr D responded to say that Admiral has told him that it would charge an administration fee even when cover has not yet started. He asks that his complaint is updated to include this point.

Mr D says having looked at other insurance providers none of them charge an administration fee for cancelling within the cooling off period. He also asks how it can be determined that the amount of the administration fee is fair. He believes consumer law allows him 14 days to cancel without the application of any fee.

Mr D says the purpose of his complaint is that he feels the administration charge is unfair and against consumer law. He refers to a web page published by the Citizens Advice Bureau (CAB). He says this indicates that consumer law prohibits Admiral from charging any fees within the 14-day cooling off period. Mr D says ICOBS provides guidance for companies not for consumers. He says he'd like to see evidence in consumer law that clarifies the position around administration fees.

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 Mr D's comments about Admiral's approach to charging administration fees prior to cover starting. However, before our service can look at an issue it must first have been referred to the business for it to consider and provide a response. Mr D can of course raise further issues with Admiral, but I can't consider this point here.

Mr D says when looking at other insurers he can't see that they charge administration fees in the way Admiral has. I acknowledge his comments. From what he says he has looked at one insurance provider, as well as the low cost brand also owned by this same insurer. I don't doubt what Mr D has said. But as discussed in my provisional decision there are insurers who currently charge administration fees in the same way Admiral has.

I note Mr D's reference to the CAB webpage. I've read this information, but I can also see that the CAB publishes information that confirms an insurer may charge an administration fee within a 14-day cooling off period. This information can be found here: <https://www.citizensadvice.org.uk/consumer/insurance/insurance/cancelling-an-insurance-policy/>.

Our service is here to resolve individual disputes. We're not the regulator and it's not our role to set the rules the industry must follow – this is the role of the FCA.

I understand Mr D feels strongly that when charging an administration fee within the 14-day cooling off period, Admiral is acting contrary to what is required under consumer law. However, I explained in my provisional decision that it is the FCA's ICOBS rules that are relevant here.

Mr D may wish to direct his concerns to the FCA with respect to the ICOBS rules and the consumer law he has referred to.

Having considered Mr D's comments, I'm not persuaded to change my decision. I think the £25 administration fee Admiral sets out in its policy terms appears reasonable and proportionate for the reasons stated in my provisional decision. But I don't think Admiral has shown that the customer journey Mr D followed clearly highlighted this information. So, I'm satisfied that my original decision is fair.

My final decision

My final decision is that I uphold this complaint. Admiral Insurance Company Limited should:

- refund the £25 cancellation charge plus 8% simple interest from the date the charge was paid until the refund is provided. *If Admiral considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr D how much it's taken off. It should also give Mr D a certificate showing this if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 20 December 2022.

Mike Waldron
Ombudsman