

The complaint

Ms D has complained about the way her insurance broker, Insurance Factory Ltd ("IF") dealt with the cancellation of her motor insurance policy.

What happened

Ms D took out a motor insurance policy through IF at the start of January 2022. Around two weeks later she told IF that she had moved as she had sold her property and was temporarily staying at a hotel. IF notified Ms D's insurer who didn't agree to continue to provide cover for her.

Ms D spoke to her insurer who gave her the option of cancelling the policy herself rather than it avoiding it i.e. treating it as if it never existed. Her insurer told her to let IF know so that it would progress the cancellation.

Ms D wrote to IF on 1 February and said she wanted to cancel the policy with immediate effect. She later spoke to IF who told her that it couldn't cancel the policy as it didn't have the insurer's authority to do so.

The insurer later provided authority and IF cancelled the policy on 14 February. It said it couldn't get through to Ms D so it cancelled the policy itself rather than allowing her to do it. It told Ms D that there was still a balance for her to pay and this included its cancellation fee.

Ms D didn't agree that she was responsible for any further charges as she'd already paid around £50 when she took the policy out. She complained about this as well as the fact that there was a delay in her policy being cancelled.

IF didn't uphold Ms D's complaint. It said its charges were in its terms of business which Ms D agreed to when taking out her policy. As a gesture of goodwill IF halved its cancellation fee to £25 which left an outstanding balance of £46.13.

Unhappy with IF's response Ms D complained to us. She said she wanted IF to stop chasing her for the £46.13 and she also wanted a £25 refund as she believed she had overpaid for her policy as it was cancelled later than she requested.

Our Investigator who reviewed the complaint thought it should be upheld. She said that the £50 cancellation fee hadn't been applied fairly because Ms D had no say in the policy being cancelled and only did so as she was told by the insurer that it was in her best interests to do so. Our Investigator thought the policy should have been cancelled as of 1 February as per Ms D's request and that this was something that the insurer had also agreed to. She thought the balance outstanding should be changed to £21.13 made up of the £49.50 arrangement fee, £22.38 time on cover (payable to the insurer) less Ms D's deposit of £50.75.

Our Investigator also thought IF should pay Ms D £100 compensation for the distress and inconvenience it caused her. And she asked IF to provide Ms D with a letter confirming that she was the one who cancelled her policy.

IF didn't agree and asked for an ombudsman's decision. It said the £50 cancellation charge would have been applicable whether Ms D chose to cancel the policy herself or not. It said the insurer's decision not to continue to provide cover was also partly due to Ms D having undisclosed claims. It said another reason why it wasn't able to progress the cancellation as per Ms D's request was because she refused to agree to pay the cancellation charges. Finally, it said the letter about the cancellation should come from the insurer instead.

While the complaint has been with us the insurer agreed to backdate the policy to show the cancellation took place on 1 February and issued a £7.84 refund for Ms D's time on cover which IF was to pay to her. IF didn't pay this to Ms D as it said there was still an outstanding balance which Ms D hadn't settled. According to IF the new balance was £38.30.

The complaint came to me for an Ombudsman's review. Whilst I was considering it, our Investigator clarified to the parties that based on the new information from the insurer, in her opinion, the balance outstanding would be £13.29 not £21.13 as she said in her view.

In her response to IF our Investigator added that Ms D had been threatened with a referral to a debt collection agency nine days after her policy was cancelled – which she thought was done prematurely. In relation to why the cancellation fee should not be charged she noted that the policy was only live for under a month, the premium was only around £14 and, in the circumstances, charging around £100 in broker fees seemed disproportionate.

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.

Having done so, I have decided to uphold it. I should clarify that in this decision I am only looking at IF's actions as Ms D's broker. I am not looking at the actions of her insurer – a separate complaint was set up in relation to that and it was considered by our Investigator.

IF's charges

IF's terms say that a £49.50 arrangement fee will be applicable to "single vehicle" policies. The terms also refer to a £50.00 cancellation fee for policies cancelled outside the 14-day cooling off period. The arrangement fee was also set out in a letter from IF to Ms D when she took the policy out.

I think both the cancellation fee and the arrangement fee were clearly set out in IF's terms and other correspondence. And I note that Ms D had a "single vehicle" policy and that her policy was cancelled after the 14-day period. Nevertheless, I don't think this necessarily means that IF should be able to charge both these fees in these specific circumstances and I explain why below.

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.

As I said above IF's arrangement fee was clearly set out in its terms of business as well as in the letter it sent Ms D when her policy was inceptioned. And I note that it was the one that arranged the policy when it was set up. I, therefore, think it is fair that it charges this fee.

IF halved its cancellation fee to £25 instead of £50. Our Investigator didn't think this fee should have been charged at all and, in the specific circumstances, I agree. I think an overall charge of just under £100 (including the cancellation and administration fee) is high. In saying this I have borne in mind the fact that the policy was only live for under a month. And the fact that the insurer indicated it wouldn't carry on with the policy 12/13 days after it was inception which was within the cooling off period; though I appreciate that the insurer told IF not to cancel the policy at that point because it wanted to take more time to consider whether to continue insuring Ms D who had since found a new property. And I have also borne in mind that, in essence, this is a policy that the insurer would have otherwise avoided rather than cancelled as well as the fact that the premium for the time on cover was around £14 which means that the majority of what Ms D has paid was broker's fees.

For these reasons, in these very specific circumstances, I don't think the £50 cancellation fee should be charged. And without the cancellation fee, taking into account the recently amended premium from the insurer, this would mean that the balance outstanding is £13.29 and not £38.30.

Compensation

Our Investigator said that IF should also pay Ms D compensation for the distress and inconvenience it caused her. IF didn't agree and said it was following the insurer's instructions when it didn't cancel the policy after Ms D instructed it to do so on 1 February. I take IF's point but I don't think its overall service was up to the standard it should have been in this particular case.

IF says it was waiting for the insurer to authorise the cancellation. When the insurer did so, IF said it couldn't get through to Ms D and it cancelled the policy itself. I don't think this was reasonable in the circumstances as IF knew that it was Ms D who wanted to cancel the policy in the first place. And IF must also have known the significance and the difference it makes to consumers when they cancel a policy themselves, as opposed to having a policy cancelled by an insurer. A cancellation mark can have a lasting impact on their ability to take out other policies as well as on their future premiums. And this was in fact what Ms D's insurer was trying to avoid by suggesting that she cancelled the policy. IF said it was difficult getting through to Ms D to confirm the cancellation but there were several calls with her and also emails so, from what I have seen, Ms D was contactable. And she had given her instruction to cancel in writing to IF too, so I'm not persuaded that further confirmation was necessary.

As I said above, IF cancelled the policy on 14 February. The cancellation letter was sent to Ms D by email but also by post to an address IF knew Ms D no longer resided at (and she also mentioned this in one of their calls). IF wrote to Ms D on 23 February; nine days after the cancellation; to say that if she didn't pay by 1 March it would instruct a debt collection agency and that her debt amount might almost double. I think, in the circumstances, where Ms D was clearly unhappy with the fees overall, where she had made a complaint to IF and to the insurer; such a letter was premature. I accept that Ms D found the threat of being referred to a debt collection agency distressing.

In the circumstances I think IF should pay Ms D £100 compensation for the distress and inconvenience it caused her.

Letter

IF said that a letter saying it was Ms D who cancelled the policy and not the insurer should come from the insurer itself. I think it's appropriate for IF to issue the letter in this instance – as the broker it is also aware of the circumstances of the cancellation. And Ms D was only in the position she was – having a cancellation by an insurer on her record – because IF acted unfairly by not logging the cancellation as coming from her.

My final decision

For the reasons above, I have decided to uphold this complaint. Insurance Factory Ltd must:

- Amend its records to show that the outstanding balance owed by Ms D for this policy is £13.29.
- Pay Ms D £100 compensation for the distress and inconvenience it caused her.
- Issue a letter to say that it was Ms D who cancelled the policy in question, so she is able to provide this to future insurers and brokers.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms d to accept or reject my decision before 23 March 2023.

Anastasia Serdari
Ombudsman