

## The complaint

Mr A complains that Mulsanne Insurance Company Limited unfairly cancelled his motor insurance policy.

## What happened

Mr A had a diesel car, first registered in 2013. In May 2022, Mr A went online and took out a policy for the year from 23 June 2022. The policy was a telematics or “black box” policy.

The parties were Mr A as policyholder, his wife as a named driver, his intermediary or broker, an administrator on behalf of Mulsanne and Mulsanne as the insurance company.

When Mr A took out the policy, the administrator generated a statement of fact document. It included the following:

*“Total mileage: 5500”*

As an optional extra, Mr A took out breakdown insurance cover.

The total cost was as follows:

motor premium	£621.75
breakdown cover	£ 69.95
arrangement fee	£ 25.00
total	£716.70

On 1 September 2022, the broker wrote to Mr A saying that the administrator was cancelling the policy with effect from 8 September 2022. The broker said that it would make a cancellation charge of £75.00.

Mr A complained to the broker about the cancellation and the charges.

On 14 September 2022, the broker wrote to Mr A confirming that the policy was cancelled. Mr A had been on cover for about eleven weeks.

At around the same time, the broker made the following charges and refund:

Total amount paid	£716.70	
new business fee		£ 25.00
telematics device fee		£ 40.00
cancellation charge		£ 75.00

insurer charge (time on cover)	£131.53
breakdown cover	£ 69.95
total charges	£341.48
refund	£375.22

In late September 2022, Mr A returned the telematics device, and the broker refunded the fee of £40.00.

By a final response dated early October 2022, the broker turned down the complaint. It said that the cancellation had been due to non-disclosure of material facts. Mr A brought his complaint to us immediately.

Our investigator recommended that the complaint should be upheld in part. He referred to Consumer Insurance (Disclosure and Representations) Act 2012 ("CIDRA"). He didn't think that Mr A had made a misrepresentation. The investigator recommended that Mulsanne should:

1. remove any record of cancellation from its records; and
2. provide a letter of confirmation for Mr A to give to his new insurer reflecting that no cancellation should have been declared; and
3. reimburse the cancellation fee \*
4. reimburse the breakdown cover fee \* (pro-rata based on time on cover); and
5. pay £150.00 compensation for distress and inconvenience.

\*consider applying 8% simple interest to the payments from the date they were charged up until the date they have been reimbursed.

Mr A agreed with the investigator's opinion.

Mulsanne disagreed with the investigator's opinion. It asked for an ombudsman to review the complaint. The administrator says, in summary, that:

- Mileage is specific risk information and is tracked.
- It asked a clear question on mileage and the client has chosen to misrepresent this.
- Its terms of business entitled it to review the telematics data and adjust the mileage on the policy.
- It doesn't submit cancellation markers to any shared databases.

### **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.

### CIDRA

CIDRA put a duty on Mr A to take reasonable care to avoid making a misrepresentation to Mulsanne when he took out the policy.

Mr A said the mileage would be 5500.

Between late June and early September 2022, it became clear that 5500 miles wasn't enough. But Mulsanne has fallen well short of showing that Mr A ought reasonably to have known in May 2022 that 5500 miles wouldn't be enough or that he made a careless misrepresentation in May 2022.

So CIDRA doesn't provide any remedy for Mulsanne.

### Policy terms

The policy terms included the following:

*"How is the Telematics Data used? We and your insurance intermediary will use this information to:*

- review the mileage on your policy and check it is an accurate reflection of the miles you are travelling.*
- This may result in the mileage stated on your policy being adjusted, up or down, to reflect the mileage you have driven. You will be given 7 days' notice of any adjustment.*
- review the location of the insured vehicle on the policy and check it is an accurate reflection of where the vehicle is being parked.*

*This may result in the adjustment or cancellation of the policy, you will be given 7 days' notice of any adjustment or cancellation."*

So the policy said that Mulsanne or the intermediary would use the telematics data to review the mileage on the policy and check it was an accurate reflection of the miles being travelled. It said that this might result in an adjustment or cancellation of the policy.

The policy terms also included the following:

*"Cancellation by us or your Insurance Intermediary...*

*We or your insurance intermediary may cancel this insurance by giving you in writing to your last known address or email address ...*

*Subject to no non-recoverable claims having been made (or likely to be made), you will be charged on a daily pro rata basis for the time you have had on cover. We will only exercise this right if there is a good reason for doing so, including non-payment of premium, not providing documents we request, a risk we consider unacceptable or if we become aware that you have been driving your insured vehicle otherwise than in accordance with the policy terms and conditions. If a claim that is non-recoverable has, or is likely, to be made, there will be no refund of premium."*

So Mulsanne had said it would only exercise its right to cancel if there was a good reason for doing so. It gave examples of good reasons including unacceptable risk or driving otherwise than in accordance with the policy terms.

### Cancellation

The notice of cancellation included the following:

*"The insurer has taken this decision because the details provided when applying for the policy have been linked to a number of inconsistencies on various policies and*

*applicants. As a result, we believe there has been incorrect information in your application for cover with us."*

That sounds like one of a number of cancellations relating to a number of policyholders with something linking them. The reason of "*incorrect information*" didn't relate only to Mr A. And it didn't specify what information the insurer believed to be incorrect. So the broker wasn't able to tell Mr A what information he needed to check or confirm in order to avoid cancellation.

Later, the administrator explained that, between late June and late August 2022, the black box had recorded over 5,500 miles, so (at that rate) the vehicle would have an annual mileage that was beyond what Mulsanne regarded as acceptable or would quote for.

But if that was the concern, then the policy provided for a review as an alternative to cancellation. And in my view, it would've been fair for there to be a review involving Mr A rather than a unilateral cancellation.

Such a review would've revealed that he had been preparing to buy a new car and a new home a long way from where he was renting. I accept that Mr A had completed the purchase of the new home on 31 August 2022, but he hadn't moved out of his rented home at the time of the cancellation. And he was still waiting for the new car. So I find it likely that his future monthly mileage would've been less than it had been over the summer.

I don't consider that Mulsanne treated Mr A fairly by cancelling the policy without reviewing with Mr A his likely future mileage and discussing an increased premium.

### **Putting things right**

I've checked that the charge of about £131.00 for about eleven weeks on cover is proportionate to the motor premium of about £620.00 for the year.

I accept that the unfair cancellation caused Mr A to incur a cancellation fee of £75.00 to the broker. I accept that the unfair cancellation also caused Mr A to waste the pre-payment to the breakdown insurer (not Mulsanne) insofar as it related to the period of breakdown cover from 8 September 2022 to 22 June 2023. So, I find it fair and reasonable to direct Mulsanne to reimburse Mr A.

Since he will have been out of pocket since the cancellation, I find it fair and reasonable to direct Mulsanne to add interest at our usual rate.

I don't doubt that Mulsanne's unfair cancellation caused Mr A some upset and put him to some trouble in urgently arranging alternative cover.

I haven't seen enough evidence that the alternative cover was more expensive. And by late September 2022, Mr A had moved home, which might have changed his premium.

Also, Mulsanne has said that it doesn't record enforced cancellations on any database. And I intend to direct Mulsanne to write a letter to Mr A (which he may show to any current or future insurer) saying that it cancelled the policy unfairly.

For these reasons, I don't find it fair and reasonable to direct Mulsanne to compensate Mr A for any increased cost of insurance.

Keeping in mind the impact of the unfair cancellation on Mr A, I find it fair and reasonable to direct Mulsanne to pay £150.00 compensation for distress and inconvenience.

## **My final decision**

For the reasons I've explained, my final decision is that I uphold this complaint in part. I direct Mulsanne Insurance Company Limited to:

1. write a letter to Mr A (which he may show to any current or future insurer) saying that it cancelled the policy unfairly; and
2. pay Mr A £75.00 in reimbursement of the cancellation fee; and
3. pay Mr A the proportion of the breakdown cover premium of £ 69.95 that the period of time between 8 September 2022 and 22 June 2023 bears to the year ending on that latter date; and
4. pay Mr A simple interest at a yearly rate of 8% on each of the amounts it pays him under paragraphs 2 and 3 (immediately above) from 8 September 2022 to the date of payment. If Mulsanne considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Mr A how much it's taken off. It should also give him a certificate showing this if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate; and
5. pay Mr A £150.00 compensation for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 18 April 2023.

Christopher Gilbert

**Ombudsman**