

## **The complaint**

Mr M complains that Hasting Insurance Company Limited (Hastings) unfairly cancelled his motor insurance policy.

## **What happened**

Mr M says Hastings cancelled his policy in September 2022. He says this was because there were insufficient funds in his account, which meant his Direct Debit payment failed. He says the time from the missed payment to the cancellation was 16 days. Mr M says he received no phone call, text message or email. He says the two letters from Hastings were seen late so there was “very little time” to respond.

In its complaint response Hastings says it emailed Mr M the day after his premium wasn't paid by his bank. It says this was his chosen contact method. It also contacted him by post, and via his online portal account at this time. It confirmed a £12 late payment fee had been charged. It says it also told Mr M it would try and collect the payment again in seven day's time. And that the policy may be cancelled on 22 September 2022 if payment wasn't made.

Hastings says it contacted Mr M again by the same channels eight days after it first alerted him to the failed payment. It advised the collection had failed again. It said it would try and collect the money in five day's time from the card it had on file. Hastings says it again warned Mr M that his policy would be cancelled if payment wasn't made.

Hastings says a further email was sent on 21 September 2022 confirming cancellation at the end of the following day, if payment wasn't made. No payment was received so the policy was cancelled.

In its response Hastings says £485.64 is owing on the policy as a non-recoverable claim was made in the current policy year. This means the full annual premium must be paid. Hastings says this debt has now been passed on to a debt collection agency.

Mr M didn't think Hastings had treated him fairly, so he referred the matter to our service. Our investigator upheld his complaint. She says it wasn't fair for Hastings to cancel the policy when it did. This is because Mr M had to pay the premium for the full year, without receiving the benefit for the remaining term. She says this penalised Mr M with a missing payment on his credit file as well as having to disclose the cancellation, which will increase future premiums.

Our investigator says Hastings should remove any external cancellation markers, refund any cancellation fees, and pay Mr M £223.70 in relation to the increased cost of his new insurance policy.

Hastings didn't agree. It says it hadn't recorded a cancellation against Mr M and this isn't something he needed to declare to other insurers. It says a cancellation would only be recorded on an external data base with reference to fraud. Hastings says it hasn't recorded the failed payment on Mr M's credit file, although it says the debt collector may do. And says it gave Mr M sufficient warning of the cancellation as well as the opportunity to agree a

payment plan regarding the outstanding debt.

As an agreement couldn't be reached the complaint has been passed to me to decide.

I issued a second provisional decision in May 2023 explaining that I was intending to uphold Mr M's complaint. Here's what I said:

*provisional findings*

*I have reflected on what Mr M and Hastings have said. Having done so I've now reconsidered my original findings, and think a fair outcome is to uphold Mr M's complaint. Let me explain.*

*It's not in dispute that Mr M's monthly payment failed to reach Hastings. It made contact to ask for this payment to be made and explained the policy could be cancelled if this wasn't done.*

*That said the time from Hastings first notifying Mr M of the failed payment to the policy being cancelling was short. Only 16 days elapsed from it contacting him to it cancelling the policy. It's Mr M's responsibility to ensure payments are made under his agreement. But the cancellation of an insurance policy, in response to non-payment, should be a last resort. Our service takes the view that in these circumstances Mr M has failed to comply with the terms of his finance agreement rather than his insurance policy. Given the short period from notification to cancellation - it doesn't appear that cancellation of Mr M's insurance policy was treated as the last resort.*

*Hastings's policy terms allow it to cancel Mr M's policy having given him seven day's notice. But, it must also ensure that it acts fairly and reasonably. Just because the terms of the policy allow it to act as it did, doesn't mean it has acted fairly. Mr M had a claim recorded against his policy. The terms don't allow a refund of a premium where a claim has been made. So, this meant Mr M has had to pay for alternative cover, as his policy was cancelled, and owed Hastings the remaining premium payments for the same policy year.*

*In these circumstances I don't think Hastings acted fairly when cancelling Mr M's insurance due to one missed payment. Particularly given the short timeframe from notification to cancellation. As a result of the cancellation, Mr M says he pays £75.90 per month to his new insurer. He was paying Hastings £53.54 per month, so this has cost him £22.36 more. Hastings cancelled the policy after two months so this means Mr M will pay an additional £223.60 over the same policy year. In these circumstances I think it's fair that Hastings refunds this amount to Mr M.*

*Hastings should also confirm that any amount owing on Mr M's cancelled policy has been cleared with nothing left to pay. This is so he's not paying twice for insurance over this period, as a result of the unfair cancellation. Hastings should also refund any cancellation fees Mr M has paid.*

I said I was intending to uphold this complaint and Hastings should:

- pay Mr M £223.60 on provision of proof of the cost of his new insurance policy; and confirm there is nothing owing on his cancelled account; and
- refund any cancellation fees Mr M has paid.

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

Mr M didn't respond with any further comments or information for me to consider.

Hastings responded to say it disagreed with my provisional decision. It says it gave more notice than was required, under its policy terms, before cancelling Mr M's policy. Hastings also says it tried to contact Mr M on four separate occasions without response. It says it handled this policy the same as it would for any other customer.

Hastings says other decisions have been made by our service, relating to similar circumstances that are in its favour. In light of this it says it doesn't think it treated Mr M unfairly.

### **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 Hastings's comments regarding the cancellation period. In my provisional decision I confirmed Mr M's policy terms allowed Hastings to cancel his insurance within seven days. I also said that Hastings must treat Mr M fairly and reasonably.

The approach taken by our service is that the cancellation of an insurance policy for non-payment, should be a last resort. In my provisional decision I said Mr M had failed to comply with the terms of his finance agreement rather than his insurance policy. In these circumstances given the short period from notification to cancellation - it doesn't appear that cancellation of Mr M's insurance policy was the last resort.

I've thought about Hastings's further comments. However, this doesn't persuade me that it treated Mr M fairly when cancelling his policy for non-payment in the timeframe discussed.

I've read the published decisions Hastings say were found in its favour. These cases involve different circumstances. I don't think this shows my provisional decision should be changed.

In summary I'm not persuaded by Hastings's further comments that a change to my provisional decision is warranted. So, my final decision is the same as my provisional decision and for the same reasons.

### **My final decision**

For the reasons set out above and in my second provisional decision Hastings Insurance Company Limited should:

- pay Mr M £223.60 on provision of proof of the cost of his new insurance policy; and confirm there is nothing owing on his cancelled account; and
- refund any cancellation fees Mr M has paid.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 26 July 2023.

Mike Waldron  
**Ombudsman**