

The complaint

Mr G complains about the refund of premium Marshmallow Insurance Limited offered him after an open claim used to calculate his premium for his motor insurance policy was closed as non-fault. He wants a refund and compensation for his trouble and upset.

What happened

Mr G took out a policy with Marshmallow and disclosed an open claim as a fault. He kept a screenshot of the rate at inception with the claim as non-fault. When the claim was closed as non-fault, Mr G asked Marshmallow for a refund of premium.

Marshmallow firstly said that a refund wasn't due as Mr G had a further fault claim in the policy year. And then it offered him £23 in refund from the date he told it the claim had been recorded as non-fault. Mr G was unhappy with this as he thought he should have a refund from the start of the policy with the fault claim changed to non-fault.

Our Investigator recommended that the complaint should be upheld. He thought Marshmallow should recalculate Mr G's premium without the fault claim at the start of the policy and pay him the difference and £100 compensation for his trouble and upset.

Marshmallow replied that Mr G hadn't told it that the claim had been closed as non-fault until after he'd made a new fault claim. And so it thought its refund offer was fair and reasonable. Marshmallow asked for an Ombudsman's review, so the complaint has come to me for a final decision.

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 can understand that Mr G feels frustrated that he hasn't received the premium refund he expected. I can see that he's been pursuing this for a while, and I can understand that he wants this matter resolved.

As our Investigator has already explained, an open or pending claim is treated as a fault claim until the insurer closes it as non-fault if it recovers its outlay. So when Mr G took out his policy with Marshmallow he correctly disclosed the open claim as a fault and his premium was calculated on this basis.

When the claim was closed as non-fault, we expect an insurer to recalculate the premium as if the claim had been non-fault at inception and refund any difference in premium to the consumer. But Marshmallow hasn't done this, and I think that's unfair and unreasonable.

Marshmallow said that its reasoning was that Mr G had a new fault claim in the same policy year. I think this will likely affect Mr G's premium in the following year. But I'm satisfied that this isn't relevant to the premium Mr G should have paid at inception with the earlier claim recorded as non-fault.

Marshmallow said that Mr G hadn't told it about the changed claim at the time. And I can see that Mr G hasn't been able to locate the email he sent to Marshmallow, and it had no record

of it. This may be due to Mr G using two different email addresses. But I don't think this is relevant as Marshmallow could still act on the information provided by Mr G.

And Marshmallow also said the date of the letter informing Mr G of the non-fault claim was earlier than he later recalled. But I don't think this is relevant as Mr G has provided a copy of the letter from his previous insurer and I think Marshmallow can reasonably rely on it to show the change in claim outcome.

So I'm satisfied that Marshmallow should comply with standard industry practices and recalculate Mr G's premium for the full policy year as if he had disclosed a non-fault claim rather than a fault claim at inception. And then it should refund Mr G the difference, less any earlier refund.

It's taken Mr G some time and trouble to resolve this matter. And I agree with the Investigator that Marshmallow should reasonably pay him £100 compensation for this, in keeping with our published guidance.

Putting things right

I require Marshmallow Insurance Limited to do the following:

1. Calculate what Mr G's premium would have been had the open claim been a non-fault claim at the start of the policy. And refund the difference between what Mr G paid and what he would have paid if the claim was non-fault, less any payment already made.
2. Pay Mr G £100 compensation for the distress and inconvenience caused by its administration of his policy.

My final decision

For the reasons given above, my final decision is that I uphold this complaint. I require Marshmallow Insurance Limited to carry out the redress set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 16 February 2024.

Phillip Berechree
Ombudsman