

The complaint

Mr B complains about esure Insurance Limited ("EIL") and their decision to cancel his motor insurance policy.

What happened

The circumstances of the claim and complaint are well known to both parties. So, I don't intend to chronologically list the events in detail. But to summarise, Mr B held a motor insurance policy underwritten by EIL, which he paid for by monthly direct debit. Unfortunately, due to a change in Mr B's financial circumstances, he missed his monthly payment for June 2023, cancelling the direct debit around the same time.

So, EIL contacted Mr B asking for payment of this missed premium, explaining his policy would be cancelled if payment wasn't made. Mr B made this payment within the extended deadline EIL set. But the following day, EIL cancelled the policy anyway. Mr B was unhappy about this, and the impact this had on the premiums he had to pay for a new insurance policy, so he raised a complaint.

EIL responded to the complaint and upheld it. They accepted that on 24 July, when Mr B paid the £84.71 due in June, their agent had agreed to keep the policy in place, as long as no further monthly payments were missed. So, they accepted they had made an error when cancelling the policy the following day. To recognise this, they waived Mr B's outstanding balance of £121.09 and paid him £100 compensation to recognise the upset this caused. Mr B remained unhappy with this response, so he referred his complaint to us.

Our investigator looked into the complaint and upheld it. They explained that, had EIL acted fairly, Mr B would've continued with the policy they provided until it's expiry, paying £84.71 a month, as the policy itself wouldn't have been cancelled. And they were satisfied declaring a cancellation to a new insurer would most likely have led to an increase on a new policy. So, they recommended EIL pay Mr B the difference between EIL's policy monthly payment, and his new insurance policy, up to the date EIL's policy would've expired. And if Mr B needed to pay a deposit on a new policy, this should also be refunded, with 8% simple interest being applied to both these payments. Our investigator also recommended EIL write a letter to Mr B confirming the policy was cancelled incorrectly for him to use moving forwards, while also increasing the offer of compensation to £200 in total. And finally, if Mr B used this letter to find cheaper insurance to the policy he has now, they recommended EIL cover any cancellation fee Mr B incurs processing this change.

Mr B accepted this recommendation, but EIL didn't, explaining why they didn't think the cancellation needed to be disclosed by Mr B as it hadn't been reported to the CUE database. So, they didn't think they should be held responsible for any increase in premium caused by the cancellation disclosure. Our investigator considered, and responded, to these comments in detail. But their view remained unchanged. EIL continued to disagree and so, the complaint has been passed to me for a 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.

Having done so, I'm upholding the complaint for broadly the same reasons as the investigator. I've focused my comments on what I think is relevant. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

I note EIL have already accepted they made an error when cancelling Mr B's policy. As this isn't in dispute, I don't intend to discuss the merits of this in significant detail. But for completeness, I want to make clear that from the evidence available to me, I don't think the policy was cancelled fairly. And, while I appreciate there was a second missed payment for July that may have led to the confusion, from all the cancellation communication I've seen, this related to the first missed payment in June only. And this communication advised Mr B needed to make June's missed payment to stop the cancellation. So, although there was a second missed payment, I don't think I've seen evidence that shows EIL made it clear this payment would also need to be made on 24 July.

And while I appreciate Mr B should've been aware another monthly payment should've been due around that time, I do think it would've been reasonable to assume EIL would provide similar forbearance for this missed payment, as they did for the missed payment in June. And, considering Mr B did make the June payment on 24 July, I think it's reasonable for me to assume Mr B would've most likely made the second missed payment as well had EIL made this clear, considering it was reasonably clear his intention was to make the necessary payments to avoid a cancellation of his policy.

So, as I think EIL have acted unfairly when cancelling the policy, I've then turned to what I think EIL should do to put things right, which I'm aware is the point that remains in dispute.

Putting things right

When thinking about what EIL should do to put things right, any award or direction I make is intended to place Mr B back in the position he would've been, had EIL acted fairly in the first place.

In this situation, had EIL acted fairly, Mr B's policy wouldn't have been cancelled. So, Mr B wouldn't have been required to pay the outstanding balance related to this cancellation and I'm glad to see this amount has already been waived by EIL in response to his complaint. But I don't think this waiver alone places Mr B back in the position he would've been in.

Had Mr B's policy not been cancelled, I think it's reasonable for me to assume, on the balance of probability, that Mr B would've continued to make the monthly payments to keep the policy in place, as this is clearly what he intended to do by paying the £84.71 on 24 July. So, I think it's reasonable for me to assume that this would've been the monthly payments Mr B paid up until the policy expiry on 1 February 2024.

But due to the cancellation, Mr B was forced to seek alternative insurance to remain mobile. And Mr B has explained, and provided evidence to show, that the cancellation increased the premiums he had to pay, as he declared the cancellation to his new insurer.

While I recognise EIL's comments about the categorisation of the cancellation and why Mr B wasn't obligated to declare it, I don't think this is something Mr B would've been aware of. Our service expects a customer to answer any questions asked by an insurer before taking

out a policy accurately. So, when Mr B was asked whether he'd had a previous policy cancelled, I don't think Mr B would've known he didn't need to declare the cancellation, as I've seen no evidence to show EIL communicated this to Mr B in the cancellation correspondence. And I think he acted as our service would expect, by providing an honest answer to the best of his knowledge.

And as Mr B told his new insurer he'd had a policy cancelled, I think this is likely to have increased the risk of the policy and so, the premiums he then had to pay. So, as Mr B had to declare the cancellation that has already been accepted was incorrect and unfair, I think EIL should refund Mr B the additional premiums he's had to pay for his new insurance, during the time his policy with EIL should've been in force. To be clear, this refund should only be for the additional monthly premium Mr B has paid, above the £84.71 he would've paid to EIL. And I think EIL should pay Mr B 8% simple interest on this refund, from the date he paid each premium to the date of refund. Mr B will need to provide EIL evidence of his new premium, and the payments he made, to them directly to allow them to calculate this refund correctly.

And because of the above, I think it follows that EIL should refund any deposit Mr B paid towards a new policy within the time his EIL policy should've been in force, again with 8% simple interest applied from the date of payment to the date of refund.

And to ensure the cancellation has no future impact on Mr B, I think EIL should write a letter to Mr B confirming the cancellation was applied incorrectly and so, doesn't need to be declared, so he can supply this to any future insurer if required. And if Mr B can find new insurance cheaper than the insurance he currently pays because of this letter, and this means he is required to move insurer and cancel his outstanding policy, I think EIL should cover the cost of any cancellation fee applicable. Again, Mr B will need to provide evidence of this fee.

Finally, I think it's clear the cancellation has impacted Mr B. I've no doubt it would've been confusing and upsetting for Mr B to be told his policy was cancelled, when he'd been told the day before this wouldn't be the case. And I think it would've been inconvenient for Mr B to then find alternative insurance, which it's already accepted was more expensive and so, impacted him financially at a time where it was clear he was already struggling financially. So, I can understand how EIL's decision would've been emotionally distressing and made an already difficult situation worse.

Our investigator recommended EIL pay a further £100 compensation, on top of the £100 EIL already paid, taking the total amount to £200 to recognise the upset and inconvenience above. And I think this recommendation is a fair one, that falls in line with our service's approach and what I would've directed, had it not already been put forward. This is because I don't think the £100 already paid is enough to recognise all the distress and inconvenience Mr B has been caused by EIL's decision, which it's clear has impacted him over a significant period of time. So, I'm directing EIL to pay this additional amount.

My final decision

For the reasons outlined above, I uphold Mr B's complaint about esure Insurance Limited, and I direct them to take the following action:

- Write a letter to Mr B confirming the cancellation was an error on their part, and that it does not need to be disclosed to future insurers.
- Refund Mr B the difference in monthly premiums he's paid up to 1 February 2024, that exceeds the £84.71 he would've paid for the policy they provided, plus 8%

simple interest from the date of payment to the date of refund.

- Refund Mr B the deposit he paid to secure an insurance policy in the period their policy would've been in place plus 8% simple interest from the date of payment to the date of refund.
- Refund Mr B any cancellation fee he incurs if he is required to cancel his current insurance policy to secure a cheaper premium after he's received the letter I've referred to above; and
- Pay Mr B an additional £100 compensation to recognise the distress and inconvenience he's been caused.

Please note the payments referred to above will need to be calculated by EIL upon receipt of evidence from Mr B showing the payments he made, and charges he incurred.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 22 February 2024.

Josh Haskey
Ombudsman