

The complaint

Mr A, via legal representatives, has complained about his motor insurer, Collingwood Insurance Company Ltd because it charged him an additional premium and cancelled his policy.

Whilst Mr A has been represented throughout this complaint, I'll refer to the representative's comment as his own. This complaint will only deal with issues as relating to Collingwood, not those regarding the broker or finance company also involved in the cover.

Mr A is Collingwood's customer. Although it has recorded him by his first name not his surname.

What happened

Mr A was changing jobs. He was looking for new insurance cover to take into account his new role. Via a broker, a policy with Collingwood was arranged. Mr A was subsequently asked for various documents. Cancellation was threatened for non-provision. Most documents were provided and the cancellation did not go ahead.

But Collingwood noted that Mr A did not have the no claims bonus (NCB) he'd declared for the type of cover he had. Collingwood directed the broker to apply an additional premium. Mr A wasn't prepared to agree to pay an additional premium. His policy was subsequently cancelled. Collingwood provided a partial refund which was calculated taking into account the additional premium. Mr A was told by the broker that he owed around £1,000 – the outstanding balance was subsequently sent to debt collectors.

Mr A complained to the Financial Ombudsman Service. He said he didn't want cover via Collingwood anymore, but didn't want to have to pay the outstanding balance. He said he felt the monies he had paid – a deposit and a direct debit payment, should be returned to him as he'd had no service. He wanted his legal fees to be paid.

Our Investigator asked Collingwood for further information, including a response to the complaint. By way of responding to the complaint, Collingwood issued a final response letter to Mr A. It said it had cancelled the policy on 11 August upon receipt of instruction from the broker. And it had applied the additional premium for the period on risk as its policy terms allowed it to do. It provided the Investigator the other detail requested of it.

Having reviewed everything, our Investigator felt Collingwood had acted unfairly to cancel the policy and charge the additional premium. He recommended compensation, a change in the record to show Mr A had cancelled the policy and for Collingwood to ensure that Mr A was not being chased by debt collectors for any additional premium. He said, if Mr A wants it to, Collingwood should also provide a letter explaining he shouldn't have been pursued for the balance and that he had cancelled the policy. He wasn't persuaded Mr A's legal fees should be paid by it.

Collingwood said its terms, conditions and underwriting allow it to apply the additional premium. It said that is fair in case of third-party claims. Our Investigator confirmed his view that Collingwood had not acted fairly.

Mr A raised a number of points about the actions of the broker which took the deposit and the finance company which managed the monthly direct debit payments. Our Investigator confirmed that this complaint only considers the actions of Collingwood. Mr A maintained his legal costs should be reimbursed.

The complaint was passed to me for an Ombudsman's 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'm satisfied that Collingwood acted unfairly here. It was absolutely entitled to take some action when it became apparent that Mr A's NCB documents didn't support the detail he'd presented when applying for the policy. I think Mr A didn't understand what the NCB requirements were, so he made a mistake – but Collingwood had acted to offer the policy in good faith based on the details he gave. So once it became apparent those details were wrong Collingwood fairly needed the chance to review its position – to decide what it would do based on the correct presentation of detail.

The relevant legislation – the Insurance Act 2015, doesn't then say what an insurer can or can't do in a situation (like this) where there is no claim involved. But its silence on this isn't permission for an insurer to act unfairly. Collingwood has shown that if it had received the correct NCB detail, that would have resulted in it still covering Mr A – but at an increased premium. If Mr A had wanted to continue the policy, that increase would need accounting for in some way – otherwise Mr A would be better off, due to his mistake, at Collingwood's expense. The fair way for that to happen would most commonly be for any future claims to be settled proportionately. But sometimes an insurer will want the extra premium to be charged and a policyholder will find that suits them. If though the parties can't agree a way forwards then this service finds it reasonable for the contract to be ended – allowing both to go their separate ways.

I understand that Collingwood feels that applying the additional premium for the period it was on risk is fair, in case it should be notified of any third-party claims occurring during that period. But, in the event of a claim arising, the Insurance Act sets out the remedy in that situation – the claim can be settled proportionately. It's not fair for Collingwood to seek a better position for itself than allowed for by the relevant legislation.

So I'm satisfied that Collingwood, to have treated Mr A fairly, should have offered the option to cancel, or to settle future claims proportionately as alternatives to its demand for an additional premium. If it had, I think Mr A would have opted to cancel.

In a circumstance where the contract is ended, it isn't fair for the additional premium to be applied to the period the policy covered. That's because the policy is ending because an agreement to pay an extra premium, or settle future claims proportionately, hasn't been reached. And here Mr A was told that he could choose whether or not pay the additional premium. So it seems extremely unfair here for him to have been told that and made his choice (not to agree), only for the additional premium to have been applied anyway for the period of cover.

Because Collingwood acted unfairly in this respect, the payments Mr A had made against the policy didn't cover what Collingwood felt he then owed. With the outstanding sum being passed to debt collectors. I know that caused Mr A a lot of worry and I think Collingwood should resolve the unfairly charged additional premium by writing it off. And it should act to ensure no further debt collection activity occurs regarding any additional premium it applied, further putting things right by acting as though the policy was cancelled by Mr A when the demand for an additional premium was first made.

I think Collingwood should also pay Mr A £200 compensation and amend the records to ensure they show he cancelled the policy. It should also provide Mr A with a letter confirming both that he shouldn't have been chased for the additional premium – any debt was caused by its error – and that it was Mr A who cancelled the policy.

In all of the circumstances here, I think this generates a fair outcome and remedy for Mr A in respect of Collingwood's unreasonable actions. I know Mr A had legal costs too – but he always had the option to complain without seeking legal assistance. As we are an informal service, we don't require complainants to have legal representation. I'm satisfied such wasn't necessary here and hasn't materially changed the complaint outcome. So I'm not awarding Mr A's legal costs. And as confirmed by our Investigator, and above, this complaint does not deal with any of the concerns raised by Mr A about either the broker or the finance company.

Putting things right

I require Collingwood to:

- Amend its own and any external database to show Mr A cancelled the policy.
- Ensure the matter with the debt collectors is resolved expeditiously so that Mr A is no longer pursued in relation to any amount of money directly associated with the additional premium. This is based on it writing off the additional premium, so it's as though it was never charged.
- Act as though the policy was cancelled as at the first date the additional premium was first requested.
- Confirm to Mr A exactly what it's going to do to amend things, ensuring the additional premium is written off.
- If Mr A requires it to, provide a letter explaining any debt for the additional premium was due to its error in unfairly applying it and he shouldn't have been pursued for payment of it. The letter should also detail that Mr A chose to cancel the policy.
- Pay Mr A £200 compensation.

My final decision

I uphold this complaint. I require Collingwood Insurance Company Ltd to provide the redress set out above at "Putting things right".

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 12 April 2024.

Fiona Robinson
Ombudsman