

## **The complaint**

Ms A complains about how Marshmallow Insurance Limited handled her claim and cancelled her motor insurance policy. She wants substantial compensation for the trouble and upset this caused.

## **What happened**

Ms A's car was damaged in an incident with another driver. But her claim to Marshmallow was declined and her policy was cancelled due to Marshmallow's error. And so Ms A had the other driver's insurer deal with her claim. Her car was a total loss and Ms A received a total loss settlement within a month.

Marshmallow paid Ms A £200 compensation for its error in cancelling her policy and recorded the policy as a consumer cancellation. But Ms A was unhappy that she didn't receive a courtesy car and that her premium wasn't refunded when the policy was cancelled.

After her complaint came to us, Marshmallow offered Ms A £300 further compensation for the trouble and upset caused when it declined her claim. And it said the premium refund would be paid, with interest, and it waived its cancellation fee. But Ms A wanted £21,700 compensation for her trouble and upset over 217 days.

Our Investigator recommended that the complaint should be upheld. He thought Ms A wouldn't have been entitled to a courtesy car under her policy's terms and conditions as her car was deemed to be a total loss. He thought Marshmallow's offer of £300 compensation for the trouble and upset caused was fair and reasonable. And he thought Marshmallow's redress for the failure to pay a premium refund was fair and reasonable.

Ms A replied that she thought this wasn't sufficient compensation for the effect the incorrectly cancelled policy had on her and her family. She said she had to return courtesy cars as she had no insurance.

## **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 Ms A felt frustrated and stressed with how Marshmallow handled her claim. I was sorry to hear about the effect this had on her travel arrangements. Ms A made two complaints to Marshmallow. The first was about the cancellation of her policy and I won't consider that here as it's the matter of a separate complaint.

Marshmallow accepts that it should have accepted the further evidence Ms A sent in to validate her policy and this would have averted further harm. But it didn't. What I'll consider here is the distress and inconvenience caused to Ms A by the cancellation.

When a business makes a mistake, as Marshmallow accepts it has done here, we expect it to restore the consumer's position, as far as it's able to do so. And we also consider the impact the error had on the consumer.

I've first thought about what should have happened without Marshmallow's error. It would have handled Ms A's claim for the total loss of her car. Ms A wouldn't have been entitled to a courtesy car under her policy's terms and conditions as her car wasn't being repaired.

Ms A thought she had guaranteed hire car provision. But I can't see that this was included in her policy. Ms A could have had her claim dealt with by an accident management company and so she may have been provided with a hire car. But Ms A had told Marshmallow that she wanted to claim on her policy, so this wouldn't have been relevant.

What did happen was that when Marshmallow cancelled Ms A's policy, she made her claim to the other driver's insurer. This was dealt with in under a month and Ms A received a total loss settlement. This is within the timescale I would think was fair and reasonable. Ms A had a hire car for one day, but this was withdrawn when it was found that her policy had been cancelled. But this wasn't Marshmallow's decision, and I can't reasonably hold it responsible for this.

So Ms A received a settlement for the total loss of her car within a reasonable time. But she didn't receive the hire car provision she expected from the other driver's insurer whilst her claim was being settled. Ms A thought she was entitled to a courtesy car for 90 days. But this isn't correct. The hire car would always have had to be returned when she accepted a total loss settlement.

To put things right, Marshmallow offered Ms A £300 further compensation. I think that's fair and reasonable compensation as it's in keeping with our published guidance for when an error has had a severe impact on a consumer for a few weeks. I think this amount takes into account the loss of a hire car before the claim was settled. I can see that this amount has already been paid.

Marshmallow said it changed the claim liability to non-fault and recorded the cancellation as made by the consumer, so this won't affect Ms A's future premiums. Ms A was then due a pro rata refund of premium, but Marshmallow didn't process this. It's now refunded this and waived its cancellation charge. It wasn't Ms A's choice to cancel and so she shouldn't suffer losses due to Marshmallow's error. So I think that fairly restores her position.

Ms A wanted a full refund of her premium, with interest. But I don't think that would be fair and reasonable as Ms A was provided with cover until the policy was cancelled.

### **Putting things right**

I require Marshmallow Insurance Limited to do the following, as it's already agreed to do:

1. Pay Ms A £300 further compensation for the distress and inconvenience caused by its handling of her claim.
2. Refund Ms A's premium pro-rata and waive its £75 cancellation charge.

### **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, as it's already agreed to do.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms A to accept or reject my decision before 6 May 2024.

Phillip Berechree  
**Ombudsman**