

The complaint

Mrs R and Mr R complain about how Homeserve Membership Limited trading as Homeserve (Homeserve) renewed a plumbing and drainage policy on a property they no longer lived in (and a plumbing and drainage plus policy from 2017).

References to Homeserve in this decision include their agents who provide services under the policy.

This decision only covers renewal of Mrs R and Mr R's policy from 2018 onwards, as this was within the six year period during which consumers have to make a complaint about a financial services business. So, the decision doesn't cover the original taking out of the policy or subsequent renewals of the policy before 2018.

What happened

In October 2005 Mrs R and Mr R took out a plumbing and drainage policy for their property and the policy automatically renewed each year thereafter. However, they left the property in 2008, but the policy continued to be renewed, with a one-off annual payment. Unfortunately, Mrs R and Mr R didn't notice the annual payment until 2023. They knew the people who occupied the property after they'd moved and passed mail to them. They also set up redirection of mail for them that went to the property and told everyone they thought they needed to notify of their change of address.

Mrs R and Mr R only realised the policy had been renewed each year when their account went into overdraft from a payment taken by Homeserve and they contacted their bank to find out what the payments were in respect of. They didn't recall agreeing Homeserve could automatically renew the policy. They contacted Homeserve, who refunded the 2023 payment, but wouldn't reimburse them for the previous 14 years, so they complained.

In their final response, Homeserve apologised for any inconvenience, but they didn't uphold the complaint. They said Mrs R and Mr R took out the policy in October 2005 and the policy automatically renewed each year, something Homeserve said would have been made clear to them at the time. While Homeserve appreciated Mrs R and Mr R moved out of the property in 2008, they had no record of being informed about the move and under the policy it would have been Mrs R and Mr R's responsibility to tell them when changing their address. Renewal documents were sent each year to advise and remind Mrs R and Mr R the policy was in place. While Mrs R and Mr R said they didn't receive the documents, Homeserve said they were sent, so they hadn't made an error.

While Mrs R and Mr R hadn't been in the property. Homeserve said they wouldn't backdate a refund on premiums paid since they moved out as they weren't told about the move. As the policy continued in force, had Mrs R and Mr R had to make a claim, Homeserve would have amended the property address and allowed a claim on Mrs R and Mr R's new property. They confirmed they'd cancelled the policy and refunded the latest payment (£185.40).

Mrs R and Mr R then complained to this Service. They were unhappy at the policy auto renewing each year, for 15 years after they left the property. They didn't accept Homeserve's view they hadn't cancelled the policy when they moved out (so it was

their responsibility). They also didn't believe they'd set up the policy to auto renew or that they'd received correspondence from Homeserve about the policy. They wanted Homeserve to reimburse them for the payments they'd taken over the 14 years since they moved from the property.

Our investigator didn't uphold the complaint, concluding Homeserve didn't need to take any action.

On the complaint made by Mrs R and Mr R, the investigator noted that under Financial Conduct Authority (FCA) rules this Service couldn't consider complaints made more than six years after the event complained of; or if later, three years from when the customer was aware, or ought reasonably to have been aware of cause for complaint. As Mrs R and Mr R took out the policy in October 2005, it fell outside the six-year limit. While Mrs R and Mr R said they only became aware of the annual payment in 2023 when a payment took them into overdraft, the investigator thought they should reasonably have been aware an annual renewal premium had been taken from their account from 2006 onwards.

So, the investigator couldn't consider any complaint points from 2005 to 2018. So, they couldn't consider the policy being taken out in 2005, including it being set up for automatic renewal thereafter. But they could consider the six years to the complaint being brought to this Service.

Looking at events in this period, the investigator understood why Mrs R and Mr R wouldn't have received renewal documents after they moved out of the property in 2008. Homeserve had provided evidence renewal documents were issued to the property, but this wasn't an error by Homeserve, as policyholders had a duty to tell them about any changes, including their address. As Mrs R and Mr R hadn't told Homeserve about their move, the investigator didn't think Homeserve would have acted any differently. But Mrs R and Mr R should still reasonably have been aware of the policy from the annual direct debit payment of the premium.

Mrs R and Mr R disagreed with the investigator's conclusions and requested an ombudsman review the complaint. They had no recollection of taking out the policy, which they wouldn't have done online as they didn't have a computer at the time. Having carried out further research they thought they'd been misled by the policy and wanted to see the evidence on how they took out the policy. At the time they were in difficult circumstances through the loss of family members and Mrs R having been diagnosed with a serious illness, from which she didn't recover to health until 2018. This could explain why they didn't notice the annual payment being taken from their account. They also provided information on Homeserve mis-selling the policy they'd taken out around the time they took out the policy.

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.

My role here to decide whether Homeserve has acted fairly towards Mrs R and Mr R.

The key issue in Mrs R and Mr R's complaint is Homeserve continuing to renew the policy after Mrs R and Mr R moved out of their former property in 2008. They say they weren't aware the policy was automatically renewing and didn't receive any renewal documentation. Homeserve say they sent renewal documentation, and it was Mrs R and Mr R's responsibility to tell them about their move.

As I've set out earlier, the FCA rules about which complaints this Service are able to consider mean this decision cannot consider complaints which fall outside certain parameters (time limits). The rules on time limits, where a business doesn't agree we can consider a complaint, are set out in the FCA Handbook under DISP 2.8.2R and are:

The Ombudsman cannot consider a complaint if the complainant refers it to the Financial Ombudsman Service:

(1) more than six *months* after the date on which the *respondent* sent the complainant its *final response, redress determination or summary resolution communication*; or

(2) more than:

(a) Six years after the event complained of; or (if later)

(b) Three years from the date on which the complainant became aware (or ought reasonably to have become aware) that he had cause for complaint;

unless the complainant referred the *complaint* to the *respondent* or to the *Ombudsman* within that period and has a written acknowledgement or some other record of the *complaint* having been received:

unless:

(3) in the view of the *Ombudsman*, the failure to comply with the time limits in *DISP 2.8.2R*...was a result of exceptional circumstances; or

(4) the *Ombudsman* is required to do so by the *Ombudsman Transitional Order*; or

(5) the *respondent* has consented to the *Ombudsman* considering the *complaint* where the time limits in *DISP 2.8.2R* or *DISP 2.8.7R* have expired (but this does not apply to a "relevant complaint" within the meaning of *section 404B(3) of the Act*).

Looking at the requirements of DISP 2.8.2R (2)(a), Mrs R and Mr R made their complaint to this Service in December 2023, which is more than six years after the date the policy was taken out.

I've also considered DISP 2.8.2R (2)(b) that refers to three years from the date on which the complainant became aware (or ought reasonably to have become aware) he had cause for complaint. Mrs R and Mr R says they only became aware of the policy and the annual payments when a payment took them into an overdraft in 2023 (which would have been the October 2023 renewal of the policy).

However, the renewal and other information provided from Homeserve indicates an annual collection of the policy premium each year up to 2023. While an annual payment would have been less frequent than, say monthly instalments, each of a smaller amount, I think the larger value of an annual payment should reasonably have been noticed by Mrs R and Mr R. So, I think they ought reasonably to have been aware of the annual collection of the policy premium up to and including 2023 – not just when the 2023 payment took them into overdraft.

As the rules state [DISP 2.8.2R(3)] I can look at a complaint that's late if exceptional circumstances are responsible.

Mrs R and Mr R cite health issues for Mrs R between 2003 and 2018. as reasons for not noticing the annual collection of the policy premium.

I'd firstly want to assure Mrs R and Mr R I've considered the circumstances they've set out, particularly his description of the health issues Mrs R suffered. But having considered carefully what they have said, I'm not persuaded these are exceptional circumstances, that would have prevented them from noting the annual collection of the payment from 2006 through to 2023. As Mrs R and Mr R took out the policy in October 2005, it fell outside the six-year limit.

But looking at the six-year period back from when Mrs R and Mr R brought their complaint to this Service, that would go back to December 2017. In practice, that means the renewal of the policy between October 2018 and October 2023. As Homeserve refunded the £185.40 premium collected in respect of the October 2023 renewal of the policy, this means the five annual renewals between October 2018 and October 2022.

Looking at the issue, I've first looked at what the policy terms and conditions set out in the event a policyholder moves property while the policy is in force. Under a heading *What if I move home?* the terms and conditions of the policy state:

"You are responsible for informing Homeserve of a change of your address so that cover can be transferred to your new property. Please phone us on the customer services number or write to Homeserve at the Freepost address, to advise us of your new address. We will check with you whether your cover is appropriate for your new property before it is transferred. If it is not appropriate you may cancel your policy as set out under the heading 'How can my policy be cancelled?' in this section."

I've seen no evidence Mrs R and Mr R told Homeserve about their move from the property in 2008, so with the policy set up for automatic renewal, Homeserve would have continued to send renewal documentation to the old property. While Mrs R and Mr R say they didn't receive renewal documentation, HomeServe's records indicate it was sent. And in any event, as I've concluded above, I think it reasonable for Mrs R and Mr R to have noticed the annual premium being collected from their account at renewal. And if they didn't recognise the payment or what it was in respect of, they could have queried it with their bank and then, with Homeserve.

The above policy terms also provide for cover to be transferred, subject to it being appropriate to the new property. Or, if it wasn't appropriate, for the policy to be cancelled. Taking all these conclusions and points into account, for those elements of complaint I can consider, I can't conclude Homeserve have acted unfairly or unreasonably. They've refunded the 2023 premium to Mrs R and Mr R, which I think is reasonable, but I won't be asking them to do anything further.

My final decision

For the reasons set out above, my final decision is that I don't uphold Mrs R and Mr R's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R and Mr R to accept or reject my decision before 10 June 2024.

Paul King
Ombudsman