

The complaint

Mr R complains that Wakam unfairly cancelled his commercial courier car insurance policy and hasn't refunded enough of the premium.

What happened

Mr R was aged between 64 and 75. He had a part-time role as a delivery driver.

From about December 2021, Mr R had a car insurance policy branded with the name of a claims administrator. Wakam was the French insurance company that was responsible for performing the policy.

In December 2023, Wakam's criteria included a policyholder's age of 21 to 75 years. For the year from 21 December 2023, Mr R renewed the policy and paid about £2,100.00.

Much of the complaint is about acts omissions or communications of the claims administrator. Insofar as I hold it responsible for them, I may refer to them as acts omissions or communications of Wakam.

In June 2024, Mr R reached the age of 75.

Mr R changed his address and told Wakam. It gave notice of cancellation of the policy on 12 August 2024 (nearly eight months or two thirds of the way through the policy year). Wakam refunded £412.74.

Mr R complained to Wakam that it had cancelled the policy due to a change in the criteria for age, and that Wakam should've refunded about £700.00 – the cost of the remaining one third of the policy year.

By a final response dated 21 August 2024, Wakam turned down that complaint.

Mr R brought his complaint to us later in August 2024. He said the following:

"I would love to be still insured at my age but failing that I think I should get all the £700 plus money back"

Our investigator recommended on 10 January 2025 that the complaint should be upheld in part. He thought that Wakam should've honoured the policy until the expiry on 20 December 2024. He thought that Wakam cancelled the policy without giving the required notice. He thought that it was reasonable for Mr R to expect a higher refund.

The investigator recommended that:

"Wakam should:

- Calculate a refund of premium on a pro-rata basis and refund the difference between the amount and the amount already refunded.*

- *Pay interest to [Mr R] at 8% on the additional refund from the date of initial refund to the date of payment.*
- *Remove any record of cancellation by the insurer from the insurance database and refund cancellation fees charged (if any).*
- *[Mr R] lost his part-time job which kept him active. I think it's reasonable for the policy to have been retained until expiry in December 2024. So, Wakam should pay compensation of £100 for the trouble and upset caused to him."*

Wakam provided further information. That included that it does not subscribe to any insurance database, so the cancellation will not be reflected elsewhere. Wakam offered a compensation payment of £100.00 as a goodwill gesture.

Mr R thanked the investigator for his opinion and declined Wakam's offer.

The investigator slightly changed his view. He still recommended on 5 February 2025 that the complaint should be upheld. He still thought that Wakam cancelled the policy without giving the required notice. He didn't think it was fair for Wakam to cancel the policy before expiry.

The investigator changed his recommendation to the following:

" Wakam should:

- *Calculate a refund of premium on a pro-rata basis and refund the difference between the amount and the amount already refunded.*
- *Pay interest to [Mr R] at 8% on the additional refund from the date of initial refund to the date of payment.*
- *Refund any cancellation fees (if any)*
- *[Mr R] lost a source of income through the actions of Wakam. He's not asked to be compensated for his lost earnings. But Wakam should pay compensation of £100 for the trouble and upset this cancellation has caused him"*

Wakam disagreed with the investigator's changed opinion. It asked for an ombudsman to review the complaint. It says, in summary, that:

- Pro-rata refunds are only applicable to ancillary products associated with the main policy (e.g., breakdown cover).
- There is no provision stating that a pro-rata refund applies if the insurer cancels the policy.
- The reason the policy could not remain active was that the customer did not meet the underwriting criteria. As a result, its system did not allow any updates to their personal details. Keeping the policy active with outdated information could have had serious consequences in the event of a claim.
- Cancelling the policy was the only viable option.
- The notice period provided was 7 days instead of the required 10 days.

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.

Wakam's policy terms included the following:

" Your right to cancel Your policy

...

You may cancel within 14 days from the date You receive Your Motor Policy documentation (the "Cooling-off Period"). If You exercise this right and provided there has been no claim made or outstanding, You will be entitled to a refund of premium less a charge on the following scale. If You do not cancel Your Insurance Policy within the Cooling-off Period, You will be bound by the terms of this document.

...

<i>Period not exceeding...</i>	<i>8 months</i>
<i>Premium Payable...</i>	<i>81%...</i>

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Our right to cancel Your policy

We have the right to cancel Your policy at any time by giving You ten days' notice in writing where there is a valid reason for doing so...

If we cancel Your Motor Insurance at any time, we will automatically cancel any cover provided by any additional services and benefits You may have chosen with Your main Motor Policy cover. The premium You have paid for these additional services and benefits will also be refunded less a pro rata charge for the time You have been on cover

...

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(I've added the underlining and I will come back to that.)

So the policy terms provided a refund subject to the scale charge if the policyholder cancelled within the 14-day cooling-off period.

However the scale contradicted that by contemplating cancellation long after the cancellation period, for example after a period not exceeding eight months.

The policy terms didn't say that the scale applied if Wakam (rather than the policyholder) cancelled the policy. However the reason I've underlined the word "also" is because I find that it implies that the refund for additional services would be in addition to a refund for the motor insurance.

For these reasons, I find the policy terms unclear on the issue of a refund for motor insurance.

Wakam had Mr R's date of birth. It renewed the policy for a year from December 2023. In any event, Wakam didn't take any action on Mr R's 75th birthday. I infer that, if he hadn't contacted Wakam about his change of address, the policy would've continued. And I wouldn't have found it fair for Wakam to decline any claim on the grounds of his age.

So – in the absence of a clear term in the policy - I don't consider that Mr R's age was a valid reason or a fair reason for cancelling a policy that would otherwise have continued until December 2024. Also it's common ground that Wakam didn't give Mr R ten days' notice in writing of the cancellation. So I find that the cancellation was unfair.

Further, Wakam's final response included the following:

“Regarding the refund of £412.74, this amount was calculated in accordance with the cancellation scale outlined in your policy booklet, as per the terms and conditions accepted at inception and renewal. I have attached a copy of your policy booklet for your reference. Please refer to page 18 for details on the percentage of the original premium retained depending on the timing of the cancellation. Please be advised that these terms apply regardless of whether the policy is cancelled by you or the insurer”

So Wakam said that the scale applied notwithstanding that Wakam rather than Mr R had cancelled the policy after nearly eight months. From that and from its file, I think that Wakam’s calculation was as follows:

Premium paid	£2,172.32
Less 81% of £2,172.32	£1,759.58
Subtotal (or 19% of £2,172.32)	£ 412.74

Whatever the conflicting information in Wakam’s policy terms, final response and submissions to us, I don’t find it fair or balanced that Wakam could cancel for any valid reason and yet Mr R wouldn’t get a refund that was pro-rata to the period after the cancellation for which he’d pre-paid. Further, I’ve found the cancellation unfair.

Putting things right

I’ve thought about what it’s fair and reasonable to direct Wakam to do to try to put things right for Mr R at this late stage.

I find it fair and reasonable to direct Wakam to calculate a refund pro-rata to the period from 12 August 2024 to 20 December 2024 and, after deducting its previous refund of £412.74 to pay Mr R the balance of that pro-rata refund.

Mr R has been out of pocket since 12 August 2024. So I find it fair to direct Wakam to add interest from that date on the further refund at our usual rate.

I accept Wakam’s statement that it hasn’t informed any external database that it cancelled the policy. And my decision includes that the cancellation was unfair. So I don’t find it proportionate to direct Wakam to remove any adverse information from such databases.

Apart from the deduction of the scale charge, I haven’t seen any evidence that Wakam made any deductions for other charges. Nevertheless I find it fair to direct Wakan not to deduct a cancellation fee.

Mr R hasn’t complained that Wakam caused him a loss of earnings. He hasn’t given enough details to show any financial loss. Nevertheless, I’ve upheld his complaint that Wakam’s cancellation and refund were unfair.

I don’t doubt that this caused Mr R distress and inconvenience. Much of that was to do with being kept out of his money, for which I’ve directed interest as a form of compensation.

Beyond that, Mr R hasn’t given much detail of the impact on him. However, I accept that he felt a sense of injustice and a lack of care for his situation. So I find £100.00 is fair and reasonable, and in line with our published guidelines, for distress and inconvenience.

My final decision

For the reasons I've explained, my final decision is that I uphold this complaint in part. I direct Wakam to:

1. calculate a refund pro-rata to the period from 12 August 2024 to 20 December 2024 and, after deducting its previous refund of £412.74 to pay Mr R the balance of that pro-rata refund; and
2. pay Mr R simple interest at a yearly rate of 8% on the further refund from 12 August 2024 to the date of payment. If Wakam considers that that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Mr R how much it's taken off. It should also give him a certificate showing this if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate, and
3. not to deduct a cancellation fee; and
4. pay Mr R £100.00 for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 9 April 2025.

Christopher Gilbert
Ombudsman