

## **The complaint**

Mr S complains that Marshmallow Insurance Limited communicated poorly, cancelled his motor insurance policy unfairly and failed to tell him about a third party claim.

## **What happened**

Mr S held a Marshmallow policy. In April 2024 he told it about a driving incident when his car had come together with another. Mr S said that he didn't wish to make a claim, although he said that the third party intended to do so. Marshmallow told Mr S that if the third party made a claim it would contact him.

Soon after Marshmallow sent Mr S a request for him to verify his driving licence details. Over the ensuing months it sent him the same request on a further 11 occasions. Mr S didn't reply. It sent another request on 11 September 2024. That email said that it had tried to contact him with regard to a claim made against his policy. It said that if Mr S didn't reply it would cancel his policy.

Mr S replied that day. He said he hadn't made a claim and asked what it was about. Marshmallow didn't respond to that email but did attempt to call him, it also sent him a text.

On 23 September 2024 Marshmallow sent Mr S an email telling him it had cancelled his policy. It also said he would still be required to pay the £726 outstanding balance of his premium. Mr S contacted Marshmallow soon after. He supplied the driving licence details and asked it to review its cancellation. When it refused to do so he complained.

Marshmallow acknowledged that it didn't get everything right but didn't change its position on the cancellation. Mr S brought his complaint to the Financial Ombudsman Service. After we asked Marshmallow for its file, it reviewed its stance. It acknowledged that its communication hadn't been as good as it should have. It said it would record that Mr S had cancelled the policy himself. It also offered to waive £100 of the cancellation fee and pay Mr S £200 compensation for his distress and inconvenience arising from its shortcomings.

Mr S remained dissatisfied with Marshmallow's response. One of our Investigators looked into the complaint. Over a series of complaint assessments our Investigator said he didn't think that Marshmallow had done everything it should have done. But he thought its proposal to put things right was reasonable in the circumstances.

Mr S didn't agree with our Investigator's complaint assessments. So the matter's been passed to me to determine.

## **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.

In bringing this complaint and responding to our Investigator's assessments of it, both Mr S and Marshmallow have made a number of detailed points. I've considered everything on file. But I don't intend to refer to every event that's happened nor to address each and every point made. Instead I will focus on the issues at the heart of Mr S's complaint and the reasons for my decision.

When doing so, where the evidence is incomplete, inconclusive, or contradictory, I reach my decision on the balance of probabilities. In other words, I determine what I consider is more likely than not to have happened in the light of the available evidence and the wider circumstances.

*Was it reasonable for Marshmallow to cancel Mr S's policy?*

Mr S's policy is clear that he must respond to Marshmallow's requests for information. And if he doesn't do so then it may reasonably cancel his policy.

In this case Marshmallow sent Mr S 13 requests for his driving licence summary information over a period of several months. Mr S says he didn't see these as they went into his spam. But all the emails were correctly addressed. And I note Mr S clearly received the September 2024 email, warning that Marshmallow would cancel his policy. And he appears to have received Marshmallow's other emails sent after that one. So I don't think it was Marshmallow's fault that Mr S didn't see the earlier emails.

Mr S did respond to that email asking what it was about. As I explain below, Marshmallow hadn't until that point told Mr S that a third party had made a claim against his policy. So I do think Marshmallow should have responded to that email. But I think Mr S was aware of the importance of it. After all it said that he had seven days to respond or Marshmallow would cancel his policy. And Mr S said that he tried to contact Marshmallow by phone but was unsuccessful.

Mr S also started a web chat with Marshmallow that day. But he didn't continue with that beyond the automated part. So he didn't ever engage with one of Marshmallow's agents directly. And while I can understand that delays while using an online chat service may well be frustrating, it was in Mr S's interests to persist or to return to it on another occasion. But he didn't do so.

Subsequently, as Mr S hadn't sent the required driving licence information, on 23 September 2024, Marshmallow cancelled his policy. At that point Mr S contacted it again and submitted the outstanding information. But Marshmallow refused to review its stance and I think in the circumstances that was reasonable.

At the point of cancellation Marshmallow had been trying for around five months to obtain information from Mr S. It had given him a clear warning that it would cancel his policy if he didn't comply within seven days. He didn't do so and Marshmallow cancelled the policy.

I'll briefly add that it's perfectly reasonable and standard procedure for some insurers to wish to validate licence details once they've been notified of a driving incident. That's the case even where the insurer might have verified licence details previously or are not, at that point, dealing with a claim. So I don't think Marshmallow did anything wrong it insisted on Mr S giving it that information.

Mr S has said that he hadn't replied previously because he wasn't certain the email address was genuine. And while that's not an unreasonable concern he could have contacted Marshmallow before the cancellation to establish whether or not the emails were genuine and why they required the information. I'll add that it's not usual for insurers to publish the email addresses they use and I don't think Marshmallow did anything wrong in sending the requests for information by email as it did.

That said there were other things Marshmallow should have done to improve its communication. For example, until September 2024, all of Marshmallow's emails essentially said the same thing. That is, that while Mr S did not wish to make a claim for the April 2024 incident himself, Marshmallow said it still needed to validate his licence details. And while, initially, that was a reasonable email to send, matters changed in May 2024 when the third party submitted a claim for damage to their car. From that point onwards, as I explain below, Marshmallow should have made it clear that it needed Mr S's licence details in order to respond appropriately to the claim. However, given that Mr S said he didn't see

Marshmallow's emails and wasn't convinced of their authenticity until September 2024, I'm not persuaded this would have made a difference.

I'll add that Mr S has also suggested that Marshmallow either should have given him 30 days notice of the cancellation or alternatively that it had "used terms from one policy to justify actions under another". But I'm satisfied neither of those things is accurate.

I'll explain that when Mr S took out the motor policy he also took out a motor legal protection policy. Such legal protection policies are, generally, intended to cover policyholders against things like the expense of mounting legal claims against other drivers following an accident that wasn't their fault. But they are usually entirely separate from the motor policy. And, in Mr S's case, the legal protection policy is provided by an entirely separate insurer and Marshmallow isn't involved with claims that relate to the legal protection policy.

It is the legal protection policy and not Marshmallow's motor policy, which refers to a 30 day notification period for cancellation. In contrast Mr S's Marshmallow policy is clear that it can cancel a policy and – in most circumstances – will do so after giving seven days' notice. And I haven't seen any communication from Marshmallow that used the terms from the legal protection policy, or any other policy, to justify its cancellation.

As I've said above, Mr S's motor policy allows Marshmallow to cancel his policy in certain circumstances. In this case, I'm satisfied it followed those terms and conditions which include a seven day notice period for cancellations. So I don't think Marshmallow in any way misinterpreted or misrepresented its policy's terms and conditions concerning the cancellation.

That said, Marshmallow did recognise that some of its communication could have been better. And, as well as paying compensation, it recorded the cancellation as being at Mr S's instruction, rather than something it had done. That means he won't have to declare the cancellation to insurers in the future and it shouldn't affect his premiums going forwards. I think that was a reasonable step for it to take.

#### *The third party's claim*

When Mr S reported the April 2024 incident he told Marshmallow that he wasn't making a claim. At that time Marshmallow told him that if the third party decided to make a claim it would let him know. But I've seen no evidence it did so until its September 2024 email. I think it should have let Mr S know about the claim long before this. Marshmallow has offered Mr S £200 compensation in recognition of the distress and inconvenience its shortcomings have caused. I'm satisfied that was a reasonable response in the circumstances.

I'm aware that because Marshmallow had to deal with the third party claim it's said Mr S must pay the remainder of his full premium even though the policy was cancelled mid-term. Mr S's policy is clear that where Marshmallow has had to deal with a claim then no premium refund will be due, and any balance owing will need to be paid, even where that policy is cancelled mid-term.

The above is a very common term in motor policies and I think it's reasonable. That because the full premium Marshmallow charged Mr S was for it to cover him for the risks set out in the policy. And as Marshmallow paid out on a claim Mr S has had the benefit of that policy. So I'm satisfied it's reasonable for Marshmallow to ask Mr S to pay the outstanding premium balance.

Mr S has disputed the third party made a claim at all. He's also suggested the sums Marshmallow paid out weren't justified. And he isn't happy that Marshmallow hasn't shared all the details of its outlay when settling the third party's claim with him. I've seen Marshmallow has given him some of the amounts involved for repairs and the costs of a hire car. And I note Mr S has made a data protection request for the information he's entitled to.

But for data protection reasons insurers will not usually share all the details of a third party's claims with their policyholders.

In this case, as far as I can see, Marshmallow hasn't made any payments to the third party directly. Instead it's made the payments to a well-known company which provides services to insurers and individuals following motor accidents. That company provides services such as arranging repairs, hire cars and dealing with other insurers. And it has some repute within the insurance industry. That company would be well aware that any exaggerated or over inflated claims are likely to be challenged and if so it might not recover its outlay. So I think it's unlikely it would have submitted claims to Marshmallow it didn't think it could support with evidence.

Mr S also referred to online vehicle checking information he'd found about the third party's car. That said that car has no damage history. So Mr S believes this indicates it wasn't damaged. But I think he's mistaken. As far as I'm aware there is no central shared database which holds information about repairs for all cars. And while some vehicle checking services might have access to some insurance claims information, the fact that a checking service does not refer to repairs done on a specific car is not proof that the car in question hasn't ever been damaged. Instead such sites will usually check publicly available information, for example about whether a car had previously been declared a total loss and then repaired. But that's not the case here. It follows that the fact a checking service had not reported any damage isn't persuasive proof the car hasn't ever been repaired.

And having reviewed the evidence I'm satisfied that Marshmallow was required to deal with a claim from the third party which involved vehicle repairs.

So, as Marshmallow has had to deal with a claim against Mr S's policy, he will remain liable for the balance owing on his premium. However, I need to be clear that I have not looked into whether Marshmallow decided the matter of liability for the claim reasonably as this was not something that formed part of Mr S's complaint to us.

*Has Marshmallow done enough to put things right?*

I understand that Mr S has a deep sense of injustice. He thinks Marshmallow's dealt with him most unfairly. But for the reasons already given, I think Marshmallow's proposals to put things right are reasonable.

Marshmallow identified that some of its communication could have been better. But I'm not persuaded that even if its communications had been of the required standard that would have resulted in a different outcome for Mr S. And I think Marshmallow has gone some way to address the impact of its shortcomings, including recording that policy was cancelled by Mr S, offering £200 compensation and waiving a £100 fee.

I appreciate Mr S doesn't think this begins to go far enough. But I think the principal source of his distress and inconvenience is because Marshmallow cancelled his policy. And as I've said above, while it could have handled the matter better, I don't think it was its fault that happened.

### **My final decision**

For the reasons set out above, unless it has already done so, I require Marshmallow Insurance Limited to:

- Record on any external database that Mr S instigated the policy cancellation himself.
- Waive £100 from the cancellation fee.
- Pay Mr S £200 compensation for his distress and inconvenience.

If Marshmallow has not already taken the above actions and a premium balance remains outstanding, Mr S may wish to ask Marshmallow Insurance Limited to offset the compensation from any balance owing.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 30 July 2025.

Joe Scott  
**Ombudsman**