

The complaint

Mr C complains that Marshmallow Insurance Limited unfairly cancelled his motor insurance policy, told him it wouldn't cover him for a claim and sought to recover an outstanding premium balance from him.

What happened

Mr C applied for a policy with Marshmallow in December 2024. When he did so he told it he held a specific overseas driving licence and that he'd lived in the UK for four years. Marshmallow provided the cover.

Soon after Mr C was in a low speed accident when his car hit the back of another. There was no damage to Mr C's car and he didn't tell Marshmallow about the accident. Some months later the third party involved claimed for the damage to their car. Marshmallow settled that claim for a sum in excess of £10,000.

Mr C's policy required him to drive in compliance with UK driving laws. Marshmallow told Mr C that at the time of the accident his overseas licence no longer allowed him to legally drive in the UK. Although he held a valid UK provisional licence, in order to drive lawfully on that he needed to be accompanied by a suitably qualified supervising driver. Mr C wasn't. And, as Mr C wasn't supervised at the time of the accident, he was not driving in compliance with UK law. Marshmallow said that was a breach of the policy terms. So it said it would decline his claim, cancel his policy and require him to pay the outstanding balance on his premium of almost £2,400.

Mr C didn't think that was fair and complained. Marshmallow acknowledged that some of its communication could have been better and offered Mr C compensation of £100 for that. But it thought its decision to cancel his policy was reasonable.

Mr C brought his complaint to the Financial Ombudsman Service. One of our Investigators looked into it. She noted that, under the terms of the policy, Marshmallow could have sought to recover its outlay for paying the third party's claim, which was over £10,000, but had not done so. She didn't think Marshmallow needed to take any further action.

Mr C didn't agree with our Investigator's complaint assessment; 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 Mr C's made a number of points. I've considered everything he's said. But in this decision I don't intend to address each and every issue raised. Instead I will focus on what I see as being the key matters at the heart of Mr C's complaint and the reasons for my decision.

It's not in dispute that when Mr C applied for the policy he accurately reported the type of licence he held and when he moved to the UK. So there's no suggestion that Mr C was in anyway dishonest or misrepresented his circumstances to Marshmallow. That is not the reason Marshmallow cancelled his policy.

Instead Marshmallow cancelled the policy because it said Mr C was not compliant with UK driving laws. The significance of the type of licence Mr C holds is that it only entitled him to drive in the UK for 12 months from when he became resident here. Mr C told us that he became resident in the UK from 5 January 2021 – although Marshmallow recorded this as being from May 2021. So his eligibility to drive on that licence expired in 2022. From that point onwards, in order to drive lawfully in the UK, Mr C would have required a UK driving licence. That means he could either drive on his provisional licence, while being supervised by a suitably qualified driver, or he needed to take a UK driving test and gain a full licence. But he hadn't done that.

I'll briefly explain that there are other classes of overseas licence, for example those from the European Economic Area, which allow drivers to continue to drive in the UK beyond the 12 month limit, but that didn't apply to Mr C's licence.

So, again, Mr C was not driving in compliance with UK law. In other words he was driving in a manner excluded by his policy terms. And in those circumstances, the policy terms allow Marshmallow to cancel the cover. And I think it did so fairly.

Mr C thinks that, because he was upfront and honest about his driving licence from the outset, then Marshmallow should not have offered him the policy. I take his point. But I don't think that means Marshmallow cancelled his policy unfairly.

I understand that, when Mr C took out his policy he might not have been entirely familiar with the relevant UK laws. But he is clearly aware of how to use a computer, as he bought his policy online and has communicated with us and Marshmallow using online applications. And an internet search will quickly provide the information Mr C needed to know to ensure he was driving lawfully. And I can't stress strongly enough that it is Mr C's responsibility alone to ensure that he is compliant with UK driving laws. Marshmallow has no role to play in that.

Mr C's suggested that because Marshmallow offered him a policy that gave him the impression that he was entitled to drive in the UK. But, as I've already said, the responsibility to ensure that he complied with UK driving laws rested with Mr C alone. It does not fall to insurance companies like Marshmallow to give advice on whether or not an individual is compliant with UK driving laws. It is for the person themselves to find that out by doing the appropriate research. And, if they are, they can then find an insurance policy suitable for them. Mr C seems to have instead believed that because Marshmallow offered him a policy he must be eligible to drive in the UK. His belief was mistaken. But I don't think the fact that Mr C misunderstood his lawfulness to drive means Marshmallow dealt with him unfairly or unreasonably.

Further, Mr C bought his policy on what's known as a 'non-advised' basis. That means Marshmallow did not make any recommendation to suggest the policy met his needs. Instead the onus rested with him to ensure that the policy was suitable for him. And the policy was clear that in order for it to be suitable Mr C needed to be compliant with UK laws. So, it's not Marshmallow's fault that Mr C was driving unlawfully and so in breach of his policy's terms.

Mr C's said that, when applying for other insurance policies recently many of the insurers have refused his application because he doesn't have the appropriate licence. That might be the case. But the fact that other insurers might have more robust systems than Marshmallow's at the policy application stage does not automatically mean that Marshmallow has dealt with Mr C unfairly. It's a matter of commercial judgement for each individual insurer as to what filters they wish to introduce to their online application process. And as I've already said, the policy was sold on a 'non advised' basis, so it was for Mr C to determine that the policy met his needs, not the other way round.

It's worth repeating that it was not Marshmallow's responsibility to ensure that Mr C complied with UK driving laws. And the policy would have covered Mr C to drive using his UK

provisional licence, although he would have required a qualified supervising driver with him at the time. So it's not the case that the policy wouldn't ever have been suitable for him. But he needed to make sure he was compliant with the policy terms, which included complying with UK driving laws. Marshmallow was not aware at the time he bought it that Mr C would most likely fall foul of those driving laws.

In addition, even if I agreed that the policy would never have been suitable for Mr C, the remedy in those circumstances would be for Marshmallow to refund any premium he'd paid for it. But in those circumstances Marshmallow would not have covered him for the claim and he would be responsible for settling the third party's costs as a result of it. But, as our Investigator commented, Marshmallow has not attempted to do that. Instead it has paid out in excess of £10,000 to settle the third party's claim and has not sought recovery of that sum from Mr C. So I don't think Marshmallow has dealt with Mr C unfairly.

Mr C also thinks it's significant that, prior to buying this policy he had previously taken out another Marshmallow policy. When applying for that policy Mr C said he had ten years of claim free driving in his home country that he could prove, in other words ten years of no claims discount (NCD). But it transpired that Mr C couldn't provide that NCD proof. So Marshmallow cancelled that policy and offered him another without the NCD.

Mr C seems to think that because Marshmallow offered him a second policy this is evidence that it had essentially given him the green light to drive on his overseas licence. I disagree. I'll repeat again that it was Mr C's responsibility alone to comply with UK's driving laws. Marshmallow had no part to play in that. And while it's apparent that, following his first policy application, Marshmallow wanted to validate that Mr C had the ten years NCD he declared, it didn't ask him any further questions or for verification of his driving licence. So it didn't at that stage offer any comment about the validity or otherwise of his licence. And I don't think it was Marshmallow's fault if Mr C mistakenly interpreted its offer of a replacement policy as validation that his licence was appropriate to drive in the UK.

Mr C has also complained that, despite cancelling his policy Marshmallow is pursuing him for the remaining balance of the premium that's owing. I'll explain that Mr C was paying his premium in monthly instalments. And as it was only in place for around six months before Marshmallow cancelled it, he doesn't think it's fair that Marshmallow should pursue him for the premium for the remaining months of the policy that he will not have use of. However, Mr C's policy says that if it's cancelled following a claim then the full annual premium will become due. And, given that Marshmallow has paid out to settle the third party's claim on the policy, Mr C has had the benefit if it. So in those circumstances, I think it's fair and reasonable that Mr C should pay the balance owing in respect of the full policy premium.

I understand that Mr C is currently in a difficult financial position. But that's not a reason to say that it would be unfair for Marshmallow to require him to make a payment on a contract – the policy – the terms of which he agreed to when he took it out. And Mr C may seek to negotiate reasonable payment terms with Marshmallow if he wishes. So, while I sympathise with the position he finds himself in I don't think Marshmallow is acting unfairly in asking him to pay the outstanding premium balance.

The above said Marshmallow didn't get everything right. It acknowledged that some of its communication should have been better: it had caused delays; asked for information Mr C had already provided; it also sent contradictory and confusing messages. To address the impact of that, it paid Mr C £100 compensation. I think that was a reasonable response in the circumstances to address Mr C's frustration and confusion. So I'm not going to instruct it to take any further action.

In summary, given that that Mr C was driving in breach of the UK driving laws, I think it was reasonable for Marshmallow to cancel his policy. And, as it had paid a claim, he's had the benefit of his policy, so I think it's fair and reasonable for Marshmallow to charge him the full premium for that policy.

My final decision

For the reasons set out above I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 12 December 2025.

Joe Scott
Ombudsman