

complaint

Ms P says Be Wiser Insurance Services Ltd didn't ensure she knew her motor insurance policy had been cancelled. She was later prosecuted for driving without insurance.

background

Ms P bought the policy through Be Wiser on 12 May 2016. She wasn't sure about the date of an accident she'd had some time earlier, so the date Be Wiser recorded for it was wrong. The policy documents were emailed to her that day.

Shortly afterwards, the insurer queried an accident recorded against Ms P on a different date to the one she'd given. Be Wiser emailed her twice about it, but got no reply. It then emailed a seven-day notice of cancellation to Ms P on 8 June 2016. The day after the cancellation should have taken effect, Be Wiser rang Ms P, but got no answer. It didn't cancel the policy until 23 June 2016. On that date it sent a further email to Ms P to say it had been cancelled. An advisor called her the next day and left a message.

Ms P said there was a technical problem with her emails, so she didn't see any of Be Wiser's emailed letters. She didn't answer the calls from it as she didn't recognise the number. She said the message it left for her wasn't clear and the number it left didn't work. She said it should have written to her by post to tell her about the cancellation.

Be Wiser had sent Ms P a standard text message on 7 June 2016 to say her premium was due in seven days. That led Ms P to believe the policy was still in place. Further texts about the premium were sent monthly and further payments were taken. Ms P only became aware of the cancellation after she was stopped by the police in October 2016.

Our adjudicator didn't think Be Wiser had done enough. She thought it should have issued the warning and confirmation of cancellation letters by post. It should also have issued a further seven-day notice when the policy wasn't cancelled on time. She thought the texts that Be Wiser continued to send Ms P weren't helpful in terms of showing the policy's true status.

Be Wiser pointed to the guidance on our website, which said it was only required to send sufficient notice of cancellation by letter or email. It said it did more than that, and had tried to speak to Ms P as well. It didn't agree that delaying the cancellation after the due date had disadvantaged Ms P, as it gave her more time to respond. Be Wiser asked for a review of the complaint, so it was passed to me.

I thought Be Wiser did more than enough to inform Ms P about the cancellation, but that there were other issues to consider. In particular, Be Wiser continued to send text messages to Ms P after the cancellation and to take direct debit payments from her account. She complained about the cancellation and the charges in November 2016. Be Wiser didn't address the issue until April 2017. It then offered her a refund of £189.60.

I thought the text messages and the ongoing direct debits gave Ms P good reason to think the policy was still in place. But I thought the major issue was the way the policy was set up. Ms P was sure she'd only had one accident in the last five years. In the initial call it was very clear that she had no idea when it took place, so she guessed both the year and then the month. The advisor didn't query it and recorded Ms P's guesses as fact.

I didn't think Ms P had any idea how vital it was that the date she gave should be accurate. But the advisor did – or should've done - so he should've told Ms P it was *essential* the date was right. I thought if he'd offered better service to Ms P the cancellation would never have arisen. So I thought her complaint should be upheld.

I agreed with most of the proposed remedies set out by the adjudicator in her view. But I thought the level of compensation should be higher. I thought Ms P had faced a great deal of upset and inconvenience due to being stopped by the police and prosecuted. And it looked as though Be Wiser may have charged her too much and didn't deal with her complaint in good time. I said it should pay interest on the refund of premiums and her fine and charges.

I asked the parties to comment. Miss P accepted my view. Be Wiser said it didn't overcharge Ms P and had reduced its charges as a gesture of goodwill. It said she should've known it was vital to give it the right details. And it always encourages customers to check their policy details are right. It pointed out that there was good reason to cancel, as it needed more details from Ms P. Be Wiser didn't understand how I could say it took reasonable steps to inform her of the cancellation, yet say it was to blame for her driving without insurance.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I remain of the view that the major issue here is that Ms P made it clear she didn't know when the one incident on her driving record during the last five years took place. I don't think there's any justification for the advisor not picking up on that, when it was so obvious. He could have halted the process and asked Ms P to call back when she'd checked the dates. Or he could have recorded the dubious date, but told Ms P she should check it and call back. In that case, had she not done so, I wouldn't have said Be Wiser was at fault.

Unusually, the advisor didn't tell Ms P to check her documents carefully for accuracy – but I don't think that would have made any difference here. Ms P was strongly advised to do so in the correspondence from Be Wiser. But she'd already been given the impression by the advisor that guessing the date of the incident was acceptable. He'd recorded the date she gave as fact. So she'd have had no reason to query the date set out in the documents.

I think it's important to note that Be Wiser did more than we'd have expected it to do to notify Ms P of the cancellation. I agree that it wasn't required to call Ms P about the cancellation. Nor was it required to write to her *and* to email her as well. Normally, in these circumstances I wouldn't have upheld the complaint. But in this case I don't think the cancellation would have arisen at all but for the actions of Be Wiser's advisor.

Given that Ms P wasn't able to see her emails, I think the continuing text messages and ongoing direct debits gave her confidence that all was well with the policy. They continued until the full annual sum was deducted. Be Wiser's pointed out that it kept to its terms of business in charging Ms P what looked like an excessive sum for the very short time she was on cover. But it reviewed those charges and greatly reduced the amount she had to pay. Had it not done so, I would have looked at whether the charges it made were fair, regardless of what was set out in the terms of business. The charges may or may not have been reasonable - we think they should be in line with the work that's been carried out. On reflection, I won't ask Be Wiser to pay interest on the refund.

I don't think the compensation I've proposed is excessive given the situation Ms P had to face. She was stopped by the police and her car was taken away from her, causing great inconvenience and embarrassment. She was charged and prosecuted and had to attend court. I think Ms P was confused, alarmed and very distressed by the whole experience. And Be Wiser didn't deal with her complaint within a reasonable time. Meanwhile, she was faced with higher premiums because of the cancellation. All of this was easily avoidable. I don't think it's unreasonable to require Be Wiser to pay Ms P a substantial sum.

my final decision

My final decision is that I uphold this complaint. I require Be Wiser Insurance Services Ltd to do the following:

- Reimburse Ms P for any fines and charges she had to pay as a result of being stopped by the police and convicted of driving without insurance
- Add interest to the sum above at the simple yearly rate of 8%, from the date of payment to the date of settlement. Calculate the effect of Ms P's conviction on future policies for the five years following it. Taking into account future unknowns, pay half that figure to Ms P.
- Pay Ms P £1,000 compensation

HM Revenue & Customs requires Be Wiser to deduct tax from the interest. It must give Ms P a certificate to show how much is taken off if she asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms P to accept or reject my decision before 27 October 2017.

Susan Ewins
ombudsman