

complaint

Mr K's complained about the refund he got when he cancelled his motor insurance policy that he bought through Be Wiser Insurance Services Ltd.

background

Mr K bought a motor policy with a broker, Be Wiser in October 2015. In May 2016 he cancelled his policy as he sold his car. Be Wiser told him he owed it a balance of £404.52.

Mr K was upset about this. Be Wiser said his insurer had applied short term rates when he cancelled his policy. It had explained this when he called to buy the policy and set it out in his policy documents. So the balance he owed it was correctly due.

Mr K remained unhappy so he asked us to look at his complaint. The adjudicator who investigated his complaint recommended it should be upheld. He asked Be Wiser to provide its sales call recording, but it couldn't. As the broker, Be Wiser needed to show it had explained the cancellation costs to Mr K at the point of sale. Mr K said he didn't recall being given any information about the insurer applying short term rates from Be Wiser when he bought his policy. So the adjudicator recommended Be Wiser refund the difference Mr K paid the insurer for pro rata days on cover and the short term rates it applied.

Be Wiser didn't agree. It said although it doesn't have the recording of the sales call, it explains the insurer might charge short term rates to its customers so they're aware before they buy a policy. As it set out the cancellation charges in its terms and the policy, it acted correctly. It believes this complaint should be against the insurer, as Be Wiser doesn't control the rates the insurer applies.

I issued a provisional decision on 24 May 2017. In addition to the adjudicator's recommendations, I didn't think Be Wiser had been clear enough about other charges. So I thought Be Wiser should also reduce its cancellation fee to £75, refund a non refundable placement fee it charged Mr K and pay £50 compensation for failing to tell Mr K about the short term rates before he bought the policy.

Mr K accepted my provisional decision. Be Wiser didn't agree. In summary it says:

- It told Mr K the insurer would charge short term rates on cancellation in its Key Facts document.
- It's difficult to substantiate what was said as it doesn't have a recording of the sales call from 2015.
- It asked the insurer to consider charging on a pro-rata basis, but they refused. The insurer told them we've agreed with the insurer that applying short term rates on cancellation isn't unfair.
- It told Mr K the total cost of his policy which included the placement fee. If the cost of the cover wasn't desirable he had the option to go elsewhere. It must have been competitive in order to keep the business.

So the matter has been passed back to me to decide.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I intend to uphold it.

Mr K bought his policy to start on 6 October 2015. He cancelled it on 4 May 2016. So he was insured for 211 days.

The insurer's yearly premium was £1501.79. The insurer charged Mr K 90% of the yearly premium – as he cancelled his policy within eight months. So Mr K was charged £1351.61 by the insurer.

Under Mr K's policy, the insurer applied short term rates to the premium in the event of cancellation. This means Mr K paid much more than a pro rata amount for his time on cover because he cancelled his policy early. Most private motor insurance policies apply a pro rata refund when a policy is cancelled. And we think this is what a customer would broadly expect to pay as a reasonable sum.

We don't think short term rate policies are unfair. But when a broker sells a policy that applies short term rates, we think it should highlight a short term rate before a customer buys that policy. This is because the customer is at risk of paying far more than the days it was insured for if they cancel their policy – so we think it's unusual. And if the amount a customer gets back on cancellation is much less than they expected, then their understanding of whether the policy is competitive or desirable is debatable.

Be Wiser doesn't have a recording of the initial sales call. But it's told us it would have explained the insurer's cancellation charges might be calculated on short term rates. But without proof of what Be Wiser told Mr K, I don't think this is enough. The short term rates are set out on page 29 of the insurer's policy booklet. However, Be Wiser's Key Facts document to Mr K explains a cancellation charge by the insurer *may* be applied on short term rates – so Mr K isn't clear about what he will be charged. This isn't fair as there is a significant difference between pro rata rates and short term rates.

Be Wiser, as the broker, should have alerted Mr K to the short term rate calculation before he bought this policy. This is why I think it should absorb the difference in cost between what the insurer charged and pro rata rates. For failing to alert Mr K, I think it should pay Mr K £50 compensation. It should pay Mr K the difference between the short term rate applied by the insurer and the pro rata amount. As Mr K's yearly insurance premium was £1501.79 and he was insured for 211 days, this amounts to £868.16 ($\text{£}1501.79 / 365 \times 211$). As Mr K was charged £1351.61, this makes a difference of £483.45.

Be Wiser charged Mr K a placement fee of £156.46, which was non refundable. We think a placement or 'set up' fee is reasonable if a broker can show it clearly explained this fee in the sales call – so before Mr K bought her policy. It isn't enough to show it in the terms and conditions once Mr K bought the policy. We look at if a customer had been made aware of the set up fee, whether it was likely they would have continued with the policy. I think it's possible Mr K may have chosen an alternative policy to buy direct with an insurer, or broker, if he'd been aware of the non refundable set up fee of £156.46 before he bought his policy. As Be Wiser can't show it told Mr K its placement fee was non refundable before he bought his policy, I don't think it's fair to charge it.

Be Wiser charged Mr K a cancellation fee of £88.29. Its terms of business say it will charge 20% of the net return premium it receives from the insurers. We asked Be Wiser to clearly show how it reached a cancellation fee of £88.29 as this figure doesn't match the balance of the insurer's premium. And we asked it to provide a breakdown between the gross and net refund premium it received from the insurer. Be Wiser hasn't provided this. So I'm unable to decide if it's calculated its cancellation fee correctly.

We generally think it's reasonable to charge a cancellation fee of up to £75 as there are costs involved for a broker in processing a cancellation. But as Be Wiser hasn't explained how it arrived at the cancellation fee of £88.29, I don't think it's fair for it to charge Mr K any more than £75.

my final decision

I uphold this complaint. I require Be Wiser Insurance Services Limited to refund the following to Mr K:

- 'placement' fee of £156.46.
- £13.29 as the difference between the £88.29 cancellation fee it charged and £75.
- £483.45 as the difference between pro rata rates and short term rates charged by the insurer.
- pay interest on the total refund amount at the simple rate of 8% per year from the date of cancellation to the date it makes the payment.
- Pay £50 compensation for failing to tell Mr K his policy was based on short term rates.

Be Wiser must pay the compensation within 28 days of the date on which we tell it Mr K accepts my final decision. If it pays later than this it must also pay interest on the compensation from the date of my final decision to the date of payment at a simple rate of 8% a year.

If Be Wiser considers that it's required by HM Revenue & Customs to withhold income tax from that interest, it should tell Mr K how much it's taken off. It should also give Mr K a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 17 July 2017.

Geraldine Newbold
ombudsman