

complaint

Mrs Z and her representative complain about the amount she was charged when she cancelled her motor insurance policy arranged through Be Wiser Insurance Services Ltd.

background

Mrs Z took out a policy for motor insurance through Be Wiser acting as an independent broker. She decided to cancel the policy after about 25 days on cover. Be Wiser asked for more money to cover short term rates applied by the underwriter, a non-refundable arrangement fee, commission and a cancellation charge. Mrs Z complains that the amount she is being asked to pay is too much as it amounts to almost one half of the annual policy premium.

Our adjudicator recommended that the complaint should be upheld. In summary he considered that:

- Mrs Z was charged a short term rate, arrangement fee, commission and cancellation charge. All were mentioned in the key facts document supplied to her except the commission.
- But, on a fair and reasonable basis, he would expect the charges applied to have been brought to Mrs Z's attention in the inception phone call. They had not been and so Be Wiser had not acted fairly or reasonably.
- Mrs Z should be charged for her time on risk only. Whilst the short term rates were the responsibility of the underwriter it was unfair that Be Wiser had not highlighted them in the inception call. Any refund generated should be paid to Mrs Z together with interest at the rate of 8% simple a year from the date the policy was inceptioned until settlement.
- Be Wiser should be paid for its work completed for Mrs Z including setting up and cancelling the policy. But he considered that a fair amount for these services would match the amount he would have recommended Be Wiser pay as compensation to Mrs Z for the distress and inconvenience caused.

So Mrs Z would not receive any compensation and would not in turn have to pay anything to Be Wiser for its services.

Be Wiser does not agree. In summary it says short term rates are applied by the insurer and it should not be held responsible for reducing that charge. It also considers it is unjust and unfair that it is considered to have failed in its duty because it cannot locate the point of sale call – it is not required to record such calls. It also says its agents are scripted to ensure regulatory disclosures and this includes a statement about its terms of business. The policy holder is given the opportunity to have full terms read or for them to be posted. Mrs Z could also have cancelled earlier. Be Wiser should also be paid for its services.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

Where the evidence is incomplete, inconclusive, or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in the light of the available evidence and the wider circumstances.

Although Be Wiser may not be required to record its point of sale calls with customers and says its agents operate from a script it is not possible to determine what Mrs Z was or was not told (including about short term rates, charges and fees) during the inception phone call. It is also, as Be Wiser says, impossible to now determine whether the terms of business were read to her or if she requested they be sent to her.

But what is clear is that the key facts document sent to her later outlines in general terms most but not all of the charges. I also note that it also says that if the policy is cancelled after 14 days the insurers “*may*” base their premium on short term rates.

I am not persuaded on balance that Mrs Z was fully and comprehensively advised by Be Wiser during the inception call of all the charges and fees that would apply to the policy and of its full terms of business. I also do not consider that she was fully made aware of exactly which charges would be applied and their exact amounts – including the use by the insurer of short term rates - if she cancelled the policy

Furthermore, the key facts document supplied after the inception call did not fully set out all the charges. It also lacked a full explanation of exactly when the short term rates would be applied or calculated by the insurer and gave no warning of how high they might be.

Overall, I am not persuaded that Be Wiser has acted fairly or reasonably and I agree with the conclusions reached by our adjudicator for broadly the reasons given.

Consequently I find that it is fair and reasonable that Mrs Z should only be charged on a pro-rata basis (based on the original premium not the short term rates) for her time on cover and if this generates a refund payable to her she should also be paid interest on it at 8% simple a year from the inception of the policy to the date of settlement.

I also agree with our adjudicator that it is reasonable to offset any charges Mrs Z reasonably owes to Be Wiser against the award of compensation we would make for distress and inconvenience it has caused. In this case I am satisfied that the two amounts are equal and so it is fair that no compensation is payable and Mrs Z should not have to pay anything to Be Wiser for its services.

So, I see no compelling reason to change the proposed outcome in this case.

my final decision

My final decision is that I uphold this complaint. In full and final settlement of it I order Be Wiser Insurance Services Ltd to only charge Mrs Z for her time on risk. If this generates a refund due to Mrs Z it should pay it to her together with interest at the rate of 8% simple a year from the inception of the policy until the date of settlement. I make no other order.

Stephen Cooper
ombudsman