

## **complaint**

Mr L has complained through his mother, Mrs H, that Be Wiser Insurance Services Ltd (Be Wiser) failed to cancel his motor policy which meant he was charged fees he wasn't responsible for.

## **background**

Mr L had a motor policy which was coming up for renewal in April 2015. In February 2015 he says he called Be Wiser and asked to cancel his policy. He said he was going to start using his car for business purposes and his existing insurer would no longer cover him. So he had to take out another policy with another insurer.

In April 2015 Be Wiser wrote to Mr L and said his policy would automatically renew and it provided a breakdown of the new premium. The premiums were being paid through a finance company who also wrote to Mr L around the same time providing a breakdown of the charges. Be Wiser wrote to Mr L again at the end of April 2015 and said as Mr L had cancelled his direct debit it would cancel his new policy.

Mrs H wrote to Be Wiser at the end of April 2015 and said Mr L had already cancelled the policy in February 2015. Mrs H said Mr L had been told by Be Wiser that he was due a refund because he cancelled his insurance before the end of the policy period. She asked Be Wiser to cancel the policy and issue a payment to Mr L for the premiums and additional fees it mistakenly charged him. Mrs H said she sent a written authority from Mr L saying she could act on his behalf in this matter.

Be Wiser then wrote to Mr L saying it didn't have authority to speak to Mrs H. It said it had tried to get in touch with him but wasn't able to and asked him to get in touch if he still wanted to cancel the policy. Be Wiser continued to write to Mr L asking for payment and in May 2015 it sent him a default notice, meaning if he didn't pay it would take action against him.

Mrs H wrote to Be Wiser around the middle of May 2015 repeating that Mr L had cancelled the policy in February 2015. Mrs H said she enclosed Mr L's new insurance certificate with that letter because Be Wiser had asked for it but Be Wiser said it didn't receive it. Be Wiser continued to chase payment and started threatening to take the matter to court.

Mrs H said she resent the insurance certificate to Be Wiser in September 2015. But Be Wiser said the insurer wouldn't agree to backdate the cancellation and issue a refund because it was only a cover note.

Eventually Be Wiser offered to pay Mr L back the new premium it had charged him and said it would waive the additional charges. Mr L wasn't happy. He said he wanted the refund he was owed and also compensation for all the trouble and upset he was caused. He cancelled the policy in February 2015 and it wasn't until May 2016 that Be Wiser agreed to waive the charges and refund the new premium.

Be Wiser didn't change its decision so Mr L complained to us. Our adjudicator thought the complaint should be upheld. She asked Be Wiser to refund Mr L's premium from his first policy and pay him £100 compensation. Be Wiser didn't agree.

## 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 think this complaint should be upheld.

Be Wiser accepts that Mr L got in touch with it in February 2015. It says it hasn't got the telephone call but it has provided a screenshot from its system. The system shows that on 13 February 2015 the policy status was showing as "cancelled" and there is also a note that says "canc seen £196.01rp".

Be Wiser said the note stating "canc seen £196.01rp" was generated because Mr L had *asked* about cancelling his policy. When a policyholder asks to cancel a policy, they get told what their likely refund will be so that they can decide whether or not to proceed. But without the call recording Be Wiser says it's difficult for it to say what was discussed.

Mr L has always maintained that he cancelled the policy on 12 or 13 February 2015 and he was told he was due a refund. The note on Be Wiser's system is dated 13 February 2015. And from what I've seen, the cover note from Mr L's new policy shows that he took that policy out on 13 February 2015. I think this shows that it's very likely that Mr L asked Be Wiser to cancel his existing policy at the same time. So on balance, I think when Mr L called in February 2015 he asked Be Wiser to cancel his policy. And I think during that call he was told he would get a refund of £196.01.

Be Wiser said it wrote to Mr L and said his policy would renew automatically in April 2015 but he didn't query this. I don't think it should be for Mr L to correct Be Wiser's error- I think the policy should've already been cancelled by then. In any event Mrs H said the first letter they received was on 1 April 2015. And Mrs H responded on 30 April 2015 saying Mr L had cancelled his policy in February.

Be Wiser said it asked Mr L several times to send his new insurance certificate and not a cover note so the insurer could backdate the cancellation. It said it needs proof the new cover started on 13 February 2015. The cover note Mr L provided confirms that he was insured between 13 February and 15 March 2015. So I think this was sufficient. In any event, the key facts document Be Wiser sent Mr L says if he wants to cancel his policy he must return his current insurance certificate and confirm the date he wants cover to stop. It doesn't mention anything about providing a new insurance certificate. So from what I've seen, I don't think the information Be Wiser has asked for was required in order to backdate the cancellation.

For the above reasons, I think Be Wiser should've cancelled Mr L's policy in February 2015. In order to put Mr L in the position he would've been in had his policy been cancelled then, it must pay Mr L the refund he was owed by cancelling his policy before the end of the full policy term. Be Wiser's system shows this came to £196.01.

Be Wiser has agreed to pay back Mr L the £138.76 premium he was charged for the new policy and it also agreed to waive the additional charges that came to £360. I think this is reasonable.

But I think Be Wiser must compensate Mr L further because I think it caused him unnecessary trouble and upset. It didn't cancel the policy when it should've and this resulted in Mr L receiving a number of letters demanding payment for charges he didn't owe and

threatening to take him to court. And it also took Be Wiser over a year to agree to waive those charges. I think £100 is a reasonable amount.

### **my final decision**

For the reasons above, I'm upholding Mr L's complaint against Be Wiser Insurance Services Ltd and direct it to pay Mr L the following:

- £138.76 which is the premium Mr L was charged for his new policy, if it hasn't already paid it. It must also pay interest on this amount at the simple rate of 8% per year from the date the payment was taken from Mr L's account to the date it makes payment\*.
- £196.01 which is the refund he would've been due had his policy been cancelled on 13 February 2015. It must also pay interest on this amount at the simple rate of 8% per year from the date the refund was due to the date it makes payment\*.
- £100 compensation for the distress and inconvenience it caused him.

Be Wiser Insurance Services Ltd must pay the above within 28 days of the date which we tell it Mr L accepts my final decision. If it pays later than this it must also pay interest on the compensation under the third bullet point from the date of my final decision until the date of payment at 8% per year simple\*.

Be Wiser Insurance Services Ltd must also remove any record of a policy cancellation from both internal and external databases as it was Mr L who chose to cancel his policy.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 1 December 2016.

Anastasia Serdari  
**ombudsman**

\* If Be Wiser Insurance Services Ltd considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Mr L how much it's taken off. It should also give Mr L a certificate showing this if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.