

complaint

Mr N is unhappy with Swinton Group Limited's decision to pursue him for unpaid premiums and fees on his cancelled public liability policy.

background

Mr N took out a public liability policy through Swinton on an advised basis. Mr N has told us that he called up to cancel the policy before its commencement, after he realised that the policy was not suitable for his needs.

Swinton consider that the policy was sold to Mr N correctly in accordance with his stated requirements but that Mr N changed those requirements during a telephone call to them just prior to the policy commencing. Swinton tell us that they advised Mr N on that call that the policy that he had taken out would not provide the cover that he now required, although a property owner's policy may give him what he needed. Swinton say that Mr N was to go away and consider what he needed but that he didn't call back. Mr N says that he did call back and asked for the policy to be cancelled before it commenced. Swinton have no record of that call.

As a result, Mr N did not pay, when due, a direct debit to the finance company that had provided credit for his policy. The policy was then cancelled and Swinton sought to recover the unpaid premium for the time that he was on cover, together with cancellation fees. In that respect, they appointed a debt collection agent to seek payment from Mr N.

Our adjudicator considered that this complaint should be upheld. Swinton did not agree and the matter has now come to me for a final decision.

my findings

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

Swinton have been able to provide very little information on the sales process for the policy. The type of cover being taken out by Mr N would have been bespoke and the demands and needs statement is not very clear on exactly what Mr N requested. It is, however, telling that the cover required, does indicate that Mr N needed "*additional contract related property covers...*", although that is what I understand was missing from the policy documentation that he received. Despite having requested a copy of the policy documentation from Swinton, it has not been provided. It is the property related cover that Mr N was querying when he contacted Swinton by telephone, only to be told that he would need a different type of insurance to cover that.

Although Swinton have indicated that they have no record of a second call from Mr N, he says that he did call to cancel. Whether or not he in fact called, it does seem clear to me from Swinton's call record that during the call he was advised that the cover he had did not extend to what he needed. This in itself should have highlighted to Swinton that, at the very least, they should have chased up with Mr N whether or not he needed to amend his cover. That did not happen either.

Therefore, I consider that Swinton should have done more to follow this up with Mr N, prior to unilaterally cancelling the policy and seeking to chase Mr N for the debt. I do not believe

this to have been a reasonable response, when it should have been clear to Swinton that this was more than just a direct debit default. I expect that an enquiry of Mr N by telephone may have cleared this up but, as it was, debt collectors were instructed.

Accordingly, in all the circumstances of this case, I am of the view that it was not reasonable for Swinton to have pursued Mr N for recovery of the premium and cancellation fees for a policy that he had made it clear was not suitable for his needs, and may never have been, if he had originally requested property related cover as set out on the demands and needs statement. I also agree with our adjudicator that Mr N has been inconvenienced by the debt collection process and I too consider that £50 is appropriate compensation.

my final decision

My final decision is that I uphold this complaint against Swinton Group Limited and I require that it arrange to waive and cease attempting to collect the alleged debt due from Mr N. It should also remove any record of this debt and the cancellation of the policy from any internal and external records and pay to Mr N the sum of £50 as compensation for the inconvenience caused him.

James Kennard
ombudsman