

The complaint

Mr Z complains his motorcycle insurance policy was unfairly cancelled by Brightside Insurance Services Limited (Brightside).

What happened

Mr Z took out a motorcycle insurance policy through Brightside to start on 13 July 2020. He was sent a welcome pack on the same day. It said he needed *'to upload the following documents to your online account before 10:00am on the 27/07/2020 to continue to be insured'*. This warning was on the first page of the letter. The documents specified was a copy of the front and back of his driving license photocard. Brightside sent a reminder on 18 July and one on 20 July which repeated the consequence of failing to do it. On 20 July, Mr Z uploaded the required documentation.

On 22 July, Brightside asked Mr Z to send them a MyLicence check code so they could independently check the licence details they held for him. The relevant part of the letter said the following.

'Before 10:00am on the 27/07/2020 we need the following information:

Your MyLicence check code'

Brightside sent a reminder email on 24 July requesting the code again. It said,

'We need to receive all requested documents via your online account before 10:00am on 27/07/2020. If we do not, you will no longer be insured from 23:59pm on 27/07/2020 and you are advised to obtain Bike Insurance elsewhere before using or permitting your vehicle to be used on the public highway.'

This notice was the penultimate paragraph on page 2 of the letter.

Mr Z has explained that he was on holiday for 5 days camping with limited access to mobile phone signal. He returned home late on 27 July and didn't see the correspondence from Brightside until 28 July when he was catching up with his emails. By this point, he'd also been sent confirmation that his policy had been cancelled. Mr Z then contacted Brightside to give them the code requested but he was told his policy had been cancelled and he'd need to seek alternative cover.

Mr Z was charged a cancellation fee and an amount for the time he was insured. Brightside have later refunded this cancellation fee due to a customer service issue which doesn't form part of this complaint.

Mr Z felt this was unfair so he complained to Brightside. They didn't change their mind so he brought his complaint to us.

Our investigator felt that Brightside hadn't given enough notice to Mr Z, only giving explicit notice of cancellation on 24 July for failing to send them the code – meaning Mr Z was only given three days as opposed to the seven required under the terms and conditions.

Brightside disagreed. They said that from the welcome pack on 13 July, Mr Z was made aware that he would no longer continue to be insured if documents weren't provided by 10am on 27 July. This would mean he had 14 days' notice. Brightside says they have a commitment to complete all validation processing within the first 14 days of cover to keep cancellation costs to a minimum for both parties. So, they thought the cancellation was made after sufficient notice had been given and was, therefore, fair. They add that everyone '*in this day and age*' gets phone signal and he never mentioned going away to them.

The matter has been passed to me for a decision.

What I've decided – and why

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've come to the same outcome as our investigator and so I uphold this complaint. I also think she explained matters clearly and thoroughly so there's not much for me to usefully say. I would just make the following points.

On 13 July 2020, Mr Z was first asked to provide documentation to Brightside - a copy of both front and back of his driving license. It's clear what Mr Z need to do and it sets out the consequence of Mr Z failing to do it in time. Mr Z completed this task on 20 July.

Two days later, Brightside sent Mr Z an email explaining that they required some further documentation – a code. It's clear from this letter what Mr Z needs to do, however, the email doesn't set out any consequences of Mr Z failing to do it in time.

It's only on 24 July when Brightside send Mr Z a further email chasing the code that he was given him notice his policy would be cancelled if he failed to send it to them in time. I agree this is a clear cancellation warning. It does, however, only give Mr Z a total of three days' notice.

Brightside have explained that Mr Z was given notice sufficient notice of cancellation. But I don't see things in the same way. The initial notice given to Mr Z on 13 July related to its request for a copy of the front and back of Mr Z's driving licence. As soon as Mr Z complied with this request, the consequences of failing to comply become irrelevant and fall away. I can't say that it'd be fair and reasonable for Brightside to use this as an open-ended notice of cancellation should they require something other than what they specifically and originally asked him for.

The letter of 22 July requesting the new information doesn't mention cancellation or continuation of insurance at all and, as such, cannot be used as notice to cancel his policy.

The reminder letter of 24 July is where Brightside give Mr Z notice of cancellation if the requested code isn't received. It follows that Mr Z is only given three days' notice of the cancellation in relation to the code requested by Brightside.

Under the terms and conditions, Brightside agree to give seven days' notice of cancellation to a consumer. Even so, this is also something that I'd generally expect them to do based on industry standards and what's fair and reasonable in the circumstances.

Taking everything into account, I don't agree that Brightside have complied with their own terms of business nor industry standards when they cancelled Mr Z's car insurance policy. Nor can I say the cancellation was fair or reasonable in the circumstances.

Mr Z has explained the reasons why he didn't see the emails nor respond until after the deadline – and I find that he has been persuasive and consistent throughout. I also don't feel the notice on 24 July stood out from other types of correspondence issued by Brightside or had the cancellation warning in a prominent position as we'd expect to see. The reason we'd expect a business to do this is because of the significant implications of not responding to it. Even so, the main issue here is that Brightside didn't comply with its own terms or the standards we expect in a situation like this.

Whilst agreed with the investigator, I thought the redress needed to be adjusted as set out below. I shared the proposed redress with Brightside and Mr Z. Mr Z was happy with the proposal. Brightside made a number of points in response and – aside from points they repeated about why they didn't agree the outcome was incorrect - I've dealt with these below.

- If there isn't any record of the cancellation on any databases - as suggested by Brightside - then asking for all records of it to be removed internally and externally shouldn't be an onerous task for it to complete.
- Whilst the insurer might be responsible for calculating the pro rata charge, it is Brightside which cancelled the policy unfairly and so it needs to put matters right. This includes paying back to Mr Z any amount which is due back to him, as set out below. Whether it then recovers this from the insurer is a matter for Brightside.
- I don't agree the award for distress and inconvenience is excessive. I've already found Brightside didn't cancel Mr Z's policy in line with terms, nor act fairly or reasonably when it did this. I don't think it's unreasonable for a consumer to be given £150 for the distress and inconvenience this will have caused.
- I note that Brightside says the underwriter calculates the IPT but the point about the tax that HMRC will require Brightside to take off relates to the award for interest under point 3 and 4 below, if applicable, rather than IPT.

Putting things right

To put things right Brightside should take the action set out below.

1. Remove all records of the policy cancellation from all internal and external databases.
2. Give Mr Z a letter stating the policy was cancelled in error and confirming that its records have been amended. Mr Z can show this to the insurer(s) he's had since Brightside to see if his premiums would need to be adjusted.
3. Calculate the charge Mr Z incurred for the time he was insured on a pro rata basis. Brightside should pay any amount due back to him above the refund already given. They should add 8% simple interest to this amount from the date the policy was cancelled until the date it is paid.
4. Pay Mr Z £150 for the distress and inconvenience this matter has caused. This should be paid within 28 days of the date on which we tell them Mr Z accepts my final decision. If Brightside pays later than this, they must also pay interest on the compensation from the date of my final decision to the date of payment at 8% a year simple.
5. HM Revenue & Customs requires Brightside to take off tax from interest. Brightside must give Mr Z a certificate showing how much tax it's taken off if he asks for one.

My final decision

For the reasons set out above, I uphold Mr Z's complaint and so Brightside Insurance Services Limited needs to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Z to accept or reject my decision before 30 December 2020.

Rebecca Ellis
Ombudsman