

## The complaint

Miss P complains about her broker Atlanta Insurance Intermediaries Limited trading as Be Wisser (Atlanta). Miss P is unhappy at having to pay a full annual premium for a motor insurance policy Atlanta said she should cancel.

References to Atlanta in this decision include their agents.

This decision covers Miss P's complaint about Atlanta, as the broker through which she took out her policy. It doesn't cover the insurer of the policy (W), a separate business, or the claim Miss P made under the policy.

## What happened

In October 2022 Miss P took out a motor insurance policy through Atlanta, via a comparison website. In April 2023 she contacted Atlanta to say she wished to change the vehicle to be insured under the policy. However, the vehicle she wanted to change to wasn't one that W would accept. Atlanta weren't able to find alternative cover from any of the other insurers on their panel, so Miss P had to cancel the policy.

Miss P was told by Atlanta that she was owed a refund of £100.68 from the cancellation, which she was paid a few days later. Unfortunately, that was incorrect as it was based on Atlanta receiving a refund of unused premiums from W. However, Miss P had an accident shortly after she took out the policy. As no third party was involved, W wasn't able to recover any of the costs associated with the claim – they settled the claim on the basis of the vehicle being a total loss.

Because of this, no refund of premium under the cancelled policy was due, and Atlanta contacted Miss P in July 2023 to say she was liable for the full year's premium under the policy – meaning she owed a balance of £1,644.01. Miss P was unhappy at this and spoke to a manager at Atlanta, who confirmed the balance was due. Miss P complained to Atlanta.

Atlanta upheld the complaint in part. In their final response they referred to what had happened and confirmed that, because there had been a claim under the policy, where the insurer hadn't been able to recover all the costs they'd incurred, then the full year's premium was due. Atlanta referred to their terms of business, which provided for no refund of policy premiums in these circumstances. So Atlanta didn't uphold this part of the complaint.

But they apologised for Miss P being told, when she cancelled the policy, she was due a refund of £100.68. As Miss P had been misled in being told this, Atlanta upheld this element of the complaint. They apologised and said they would waive the £50 cancellation fee that would normally apply when a policyholder cancelled a policy. They also said they would deduct the £100.68 refund they'd already paid and awarded £150 compensation. Together with allowing a previously reversed discount of £40.77 they said this meant the outstanding balance they said Miss P owed was reduced to £1,393.33.

Miss P then complained to this Service. She said she'd been given misleading information by Atlanta and that because of her age they couldn't offer cover for the vehicle she'd wanted

to change to. She thought this unfair as she'd previously been insured on two different vehicles. She said she was told the only option was her to cancel her policy, so she was persuaded to cancel the policy, even though she wanted it to continue, and wasn't told of the terms and conditions of the cancellation. She was told she wouldn't need to make any further payment. She was then asked for the outstanding balance because of the claim she'd made. But there was no third party involved and she wasn't at fault. She'd also been told the claim had been closed.

She said she'd lost out financially and lost her job because of what had happened. And what had happened had affected her mental and physical health. She wanted Atlanta to remove the outstanding balance they said she owed them and any record of the balance.

Our investigator didn't uphold the complaint, concluding Atlanta didn't need to take any action. As brokers, Atlanta weren't insurers and didn't have any control over whether insurers would offer cover for Miss P's new vehicle. In the circumstances, it was reasonable for them to say to Miss P she had to cancel her policy. Miss P made a claim under her policy in October 2022, eventually settled in the sum of £850. As there was no third party involved, the insurer of the policy wasn't able to reclaim the costs of the claim, which meant it had to be recorded as a fault claim against Miss P.

Referring to Atlanta's Terms of Business, where a claim had occurred, a policyholder wouldn't be entitled to a refund of premiums unless the insurer had recovered all the costs incurred in dealing with a claim. So, having made a claim, when the policy was cancelled Miss P was liable for the full premium under the policy, so it was fair that the balance of the premium was due from Miss P. The investigator acknowledged there was an oversight on Atlanta's part (about the claim) when they mistakenly issued Miss P with the refund. While it wasn't clear why the oversight occurred and why it wasn't picked up and Miss P notified of the outstanding balance until July 2023, the actions Atlanta had taken – waiving the cancellation fee, applying the refund they'd paid and an additional £150 compensation – was fair and reasonable in the circumstances.

Miss P disagreed with the investigator's view and requested an ombudsman review the complaint.

### **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.

My role here is to decide whether Atlanta have acted fairly towards Miss P. In bringing her complaint, and in disagreeing with the investigator's view, Miss P raised a number of issues relating to her policy, including why she wasn't provided with any cover (quotes) when she contacted Atlanta to change her insured vehicle. Several of these issues relate to W, as the insurer of her policy, not to Atlanta as the broker. As I set out earlier, this decision only covers those issues relevant to Atlanta's actions as a broker – not to the actions of W as the insurer (or any other insurer that wouldn't offer to cover Miss P).

The key issue in Miss P's complaint is whether she was treated fairly and reasonably when she cancelled her policy, in particular that Atlanta subsequently asked her for the balance of the full annual premium due under the policy. Miss P says it's unfair the full premium is due following the cancellation of her policy. Atlanta say they acted fairly in line with the terms of business, which provide for no refund of premiums unless the policy insurer has been able to recover all the costs incurred as the result of a claim. Because the insurer hadn't been able to recover the costs of the claim (as no third party was involved in the accident) then they were entitled to retain the full premium due under the policy.

In their final response, Atlanta referred to their Terms of Business as the basis for retaining the full premium for the policy. They refer to the *Cancellation* section of the document and the following wording:

*“In the event that a claim has occurred under your contract, you will not be entitled to a refund of premiums unless your insurers have recovered all financial costs which may have been incurred as a result of dealing with your claim. Please note if you have elected to pay by the instalment credit facility the credit agreement will be cancelled and the balance will become payable in full.”*

While Miss P’s complaint is against Atlanta, as the broker through which her policy was arranged, I’ve noted the policy document issued by W itself includes a similar provision, Under the *General Conditions* section of the policy and a heading *Cancelling the policy after the reflection period* and a subheading *Cancellation by you* it states:

*“Providing there have been no claims in the current period of insurance we will refund the premium relating to the remaining period of insurance calculated on a proportionate basis dependent on the number of days left to run under the policy less an administration fee of no more than £50...”*

Taking both documents together, I think the terms are clear that where a claim is made during the term of the policy, there won’t be a refund of premiums and the full year’s premium will be due (Miss P was paying her premium through instalments). I’m also satisfied a claim was made in October 2022 for an accident involving Miss P and her vehicle (Atlanta’s case notes indicate she hit an object) and it was deemed a total loss.

The case notes indicate that when Miss P contacted Atlanta in April 2023 to tell them about a change of vehicle, she said she had already purchased the vehicle. I’ve also noted that Miss P provided the details of other vehicles, but they too resulted in no cover being offered from Atlanta’s panel of insurers. As Atlanta weren’t able to secure cover from either W or their panel of insurers, then they told Miss P the only option was to cancel her policy.

As this complaint is against Atlanta, not W, then the reasons why W (or the panel of other insurers) wouldn’t offer cover isn’t something for me to consider. Insurers make decisions about whether to offer cover for policyholders based on the specific circumstances, which will include the specific vehicle the policyholder is seeking to cover. Just because an insurer will cover a particular vehicle – Miss P says they covered two previous vehicles under the policy – doesn’t mean they would cover a different vehicle, or that they are obliged to cover a different vehicle simply because they’ve covered other vehicles previously. It may also have been the case that having made a claim (involving a total loss) could have been a factor in no cover being offered. But these would be commercial decisions for each insurer to make, based on the circumstances and their assessment of risk (and willingness to accept it). In the circumstances, as W wouldn’t cover the vehicle Miss P had purchased, then I don’t think it was unreasonable for Atlanta to say the only option would be for her to cancel the policy, as there would be no vehicle to cover under the policy.

Turning to the point about why Atlanta initially issued a refund, but only contacted Miss P some three months later to say the balance of the full year’s premium was due, Atlanta accept this was a mistake, given the fact of a claim having previously being made. I’ve seen the calculation of the £100.68 refund, and it’s clearly on the – incorrect – assumption of no claim having been made under the policy.

Atlanta’s case notes record their becoming aware of the claim in June 2023, leading them to contact Miss P in July 2023 to say the balance of the premium was due. I’ve not seen an

explanation of why Atlanta made this mistake, but it doesn't alter the fact that the correct position was that the full year's premium was due under Atlanta's Terms of Business, as set out above.

As a Service, our role isn't to punish a business if it makes a mistake, but to consider whether they've acted fairly and reasonably, including what actions they've taken to put things right where they have made a mistake.

In this case, as they've set out in their final response, Atlanta have done a number of things that, taken together, have reduced the balance owing by Miss P. They've apologised and waived the £50 cancellation fee that would normally apply when a policyholder cancels a policy outside of the 14 day cooling off period. They've also deducted the £100.68 refund they've mistakenly paid and awarded a further £150 compensation. They've also allowed a previously reversed discount of £40.77. Applying all these things has reduced the balance that would otherwise have been due.

I thought about what Atlanta have done to put things right, in the specific circumstances of the case, and I've concluded they've acted fairly and reasonably. So, I won't be asking them to do anything further.

### **My final decision**

For the reasons set out above, it's my final decision not to uphold Miss P's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss P to accept or reject my decision before 27 March 2024.

Paul King  
**Ombudsman**