

## **The complaint**

Mrs B complains that WDP Insurance Limited (WDP) failed to cancel the insurance policy, on her mobile phone handset.

## **What happened**

Mrs B suffers from a cognitive impairment and this complaint is brought on her behalf, by a third party.

In 2018 Mrs B obtained a WDP mobile phone contract and a policy of insurance for the handset. In July 2021, both contracts renewed. But in August 2021, Mrs B cancelled the phone contract. WDP said that it had no record of Mrs B requesting that the insurance policy be cancelled as well. So, it continued to take monthly premiums.

WDP said that in August 2021, it sent a reminder to Mrs B that the policy of insurance was still active. But heard nothing until the third party contacted WDP. They informed WDP that Mrs B was vulnerable due to her cognitive impairment. And this meant that she would've not been aware that she took out the policy. WDP cancelled the policy. However, the third party maintained that Mrs B wouldn't have been aware of the contract and a complaint was raised.

In its final response, WDP said that the insurance policy remained active as Mrs B hadn't told WDP that she wished to cancel it, so the correct process had been followed. Despite this, WDP, as a gesture of goodwill decided to refund Mrs B all the premiums she had paid from the cancellation of her mobile phone (in August 2021), which equated to 23 months at £5 per month, totalling £115.

Mrs B remained unhappy with the outcome, as she had wanted WDP to refund the policy from inception. And as she had been given her referral rights, referred her complaint to our service.

One of our investigators considered the complaint and thought it should be upheld. He said that WDP had provided very little evidence of how the sale occurred, how it kept in touch with Mrs B and updated her. Nor had it demonstrated what it would've done differently or how a person with Mrs B's vulnerabilities, would've understood what she was buying.

He felt that WDP was right to refund the premiums paid from the cancellation of the mobile phone, but recommended that WDP refund Mrs B, all the premiums paid since 2018.

Mrs B accepted the view, WDP did not. It said that it hadn't been made aware about Mrs B's vulnerabilities, had it been it would've offered additional support. But when it was made aware about them, it offered to refund all the premiums paid from cancellation of the mobile phone contract. It felt its offer was fair and highlighted that Mrs B had taken out a mobile phone contract in 2018 and upgraded it in 2021, seemingly understanding the terms and conditions. But didn't understand the terms and conditions of the insurance policy that she also took out. This it felt was inconsistent. So, it asked for a decision from an ombudsman.

## 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.

I considered the complaint, and I thought the complaint should not be upheld. I issued a provisional decision on 5 February 2024 and asked both parties to send me anything else by 6 March 2024. In my provisional decision I said:

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

*Having done so, I'm minded not to uphold this complaint. I understand that this is likely to be a disappointment to Mrs B, but I hope my provisional findings explain why I think this is fair.*

*Mrs B's third party brought the complaint on her behalf, essentially based on whether Mrs B would've known that she took the policy out, at the point of sale in 2018, due to Mrs B's personal vulnerabilities. So, I think this is the main issue of this complaint and I've concentrated my provisional findings on this point.*

*From the limited information that has been provided, I understand that Mrs B took out the policy at the same time that she obtained a handset, in store in 2018. It's fair to say that neither party have been able to provide evidence about the sales process. And, whether the sale was an advised sale (where a seller advises a consumer to take out a policy) or a non-advised sale (where the seller isn't advising or recommending the consumer purchase the policy). The seller is merely giving information to the consumer and it's for the consumer to decide whether the policy is suitable for their needs.*

*WDP has now provided a copy of the welcome pack that it said Mrs B would've received when she opened the account. It said that the pack would've been emailed to her at her registered email address.*

*I've reviewed the welcome pack, which included the policy terms and conditions. And having read this, I think the sale was a non-advised sale. I say this as the documents indicate that the onus is on the consumer to ensure that the policy must be read is suitable for their needs: 'Please read these Terms and Conditions in full so you understand what's covered and what's not'. Further, WDP has confirmed that the onus is on the consumer to ensure that the policy is suitable for their needs.*

*WDP, also provided evidence that Mrs B would've signed the contract, in store. And in doing so, she would've agreed to having read and understood the terms of the contract. It further highlighted that there were essentially two 'cooling-off periods', the first being 14 days in respect of the mobile phone contract. And the second, being 28 days regarding the handset insurance. WDP confirmed that Mrs B didn't contact them during either of the timeframes, to express that she was unhappy to continue with either contract.*

*Having reviewed the policy terms and conditions, I haven't found any term that was onerous, unclear, or misleading, that would need highlighting to a consumer. And although WDP can't say what exactly was said to Mrs B during the in-store sale, I don't agree that it failed to present this information (namely the policy terms and conditions) in a format that Mrs B could clearly understand.*

*Mrs B's representative, said that Mrs B suffers from a cognitive impairment, which means that she wouldn't have been able to understand that she took out the policy. I asked Mrs B's representative for any evidence that supported Mrs B's condition at the time that the policy*

*was taken out. This could've been a short medical report, from a healthcare professional. This wasn't provided.*

*In the absence of this important information, that supports the diagnosis and prognosis of Mrs B's condition, I'm satisfied that WDP presented Mrs B with enough, clear, not misleading information, so that she was able to make an informed choice, before she took out the policy.*

*WDP has also provided a copy of the communication sent to Mrs B after she had cancelled the phone contract. I have read this, and I think it clearly states that the policy is still active, outlines the main features of cover and highlights the monthly premium payments that will be taken.*

*WDP said that it wasn't until October 2023, that Mrs B's representative made contact. It was at this time, that it was made aware of Mrs B's vulnerabilities. And because of this, it agreed to refund a total of 23 months of the premiums that Mrs B paid. This amounted to £115.*

*I'm satisfied that WDP maintained contact with Mrs B, with the notification that she remained covered under the policy and the issue of annual policy reminders. So, I think it acted reasonably.*

*I also think WDP were right to refund the premiums back to the date when there was a change in contract. As this not only seems fair, but also considered Mrs B's personal vulnerabilities once it had been made aware of them.*

*I acknowledge Mrs B's strength of feeling about this complaint and the reason why she referred it to our service. But, in the overall circumstances of this complaint, I currently haven't seen enough evidence to show that WDP acted unfairly. If Mrs B or her representative, has any further evidence that is contrary to this, I will of course consider it. But for now, I don't intend to ask WDP to do anything further here.*

*I should confirm that WDP has indicated, that its offer of £115 refund is still available to Mrs B, if she wishes to accept it.*

Responses to my provisional decision

WDP didn't respond to the provisional decision. Mrs B said she had nothing to add and wouldn't be objecting to the provisional decision. So, my final decision, will be the same as the provisional decision.

### **My final decision**

For the reasons given, I don't uphold Mrs B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 4 April 2024.

Ayisha Savage  
**Ombudsman**