

The complaint

Mr J complains that Marshmallow Insurance Limited cancelled his motor insurance policy and despite later accepting this was done in error, has failed to compensate him properly.

What happened

Mr J took out a motor insurance policy with Marshmallow which started on 23 November 2023. A few days later, Marshmallow requested details of his no claims discount, which Mr J provided.

On 1 December 2023 Marshmallow told Mr J it had checked the information he'd provided and the document with details of his no claims discount wasn't genuine. So the policy was cancelled immediately on that day.

Mr J complained but Marshmallow didn't change its decision.

He then provided further information about his no claims discount which Marshmallow accepted. Marshmallow sent a letter saying the policy had been cancelled in error and it would remove any record of having cancelled his policy but Mr J was unhappy. He said he'd been forced to get insurance elsewhere and because he had to disclose the cancellation, it was much more expensive.

Marshmallow offered compensation of £100 but Mr J was dissatisfied with this and referred the complaint to this Service.

Our investigator said Marshmallow should pay the difference in the premium between his new insurance and the policy Marshmallow cancelled, together with interest; provide Mr J with a letter to confirm the policy was cancelled in error and that it had refunded the difference in premium; and pay £250 compensation for the distress and inconvenience caused.

Mr J accepted the investigator's view. Marshmallow agreed to pay the compensation but said it had tried to resolve things with Mr J and had provided a letter about the cancellation, which he could have shown to his new insurer to get them to recalculate the premium on the new policy.

The investigator's view remained that Mr J should be compensated for the difference in the price of his insurance. Marshmallow hasn't agreed to this, so I need to make 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.

Marshmallow has accepted that the policy was cancelled in error, so that's not in dispute. The issue I need to decide is how to put things right for Mr J. The aim when doing this is, as far as possible, to put Mr J in the position he would have been in, if the error had not happened.

Marshmallow accepted the error and offered to pay compensation of £100. It has now agreed to increase this to £250. I appreciate it did provide a letter confirming the policy was cancelled in error. But I don't think that goes far enough to put things right for Mr J.

Mr J had to find another policy, and he had to disclose the fact that his policy had been cancelled. In those circumstances, some insurers will not be prepared to offer a policy and if they do, the premium is likely to be higher. Mr J was able to get another policy but it cost a lot more than the policy with Marshmallow that was cancelled.

Where someone has had to pay more for a new policy as a result of the insurer's error in cancelling the policy, it's fair for the insurer to refund the extra premium the customer has had to pay to the new insurer. Otherwise they will be out of pocket. Giving a refund puts the customer back in the position they would have been in, if the policy hadn't been cancelled. So Marshmallow should refund the difference between the premium Mr J would have paid without declaring the cancellation and the premium paid because he did.

Although Marshmallow provided a letter saying the policy cancellation was in error, it should provide a further letter confirming this and saying it has refunded the difference in premium. This will ensure Mr J isn't able to get a refund from his new insurer as well.

From the evidence I have, it doesn't appear that Mr J has already asked the new insurer to recalculate the premium and the remedy is on that basis. Marshmallow can ask for evidence confirming this if it wishes.

Mr J was put to a lot of trouble, having to find his new policy at very short notice. He was put in a difficult situation and it was very upsetting for him. I agree that compensation of £250 would be fair to acknowledge the distress and inconvenience caused.

Putting things right

Subject to Mr J providing confirmation (if Marshmallow requests this) that his new insurer has not re-calculated the premium, Marshmallow needs to

- Pay the difference between the premium Mr J paid for his new insurance and the premium he would have paid for the cancelled policy, from the date the policy was cancelled (subject to Mr J providing proof), together with simple interest* at 8% a year on this amount from the date the policy was cancelled until the date payment is made.
- Provide Mr J with a letter to confirm the policy was cancelled in error and include in this letter that it has refunded the difference in premium.

Marshmallow should also pay Mr J compensation of £250 for the distress and inconvenience caused.

* If Marshmallow Insurance Limited considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr J how much it's taken off. It should also give Mr J a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

I uphold the complaint and direct Marshmallow Insurance Limited to take the steps and pay the compensation set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or

reject my decision before 3 October 2024.

Peter Whiteley
Ombudsman