

complaint

Mr O complains about a branded policy of car insurance administered by Europa Group Limited (Europa). I've referred to Europa throughout this decision for sake of ease, although I appreciate that Mr O was actually dealing with a different company.

Mr O says Europa cancelled his policy without giving any reason. He's unhappy that the policy was cancelled and he feels Europa harassed him by calling him many times. He's also unhappy that they asked for payment after the policy was cancelled.

background

Mr O took out insurance with Europa on 23 April 2019 and paid the first instalment. Europa sent Mr O a 'welcome letter' and his Certificate of Motor Insurance and schedule. They told him that to complete his insurance, they'd need to see proof of his no claims bonus (NCB) discount within 14 days. Mr O sent proof of his discount and Europa acknowledged this.

Mr O's previous policy had expired on 4 April 2018 and his new policy began on 23 April 2019. So, Europa emailed Mr O on 25 April 2019 to say he'd need to explain the gap between the two policies. On 30 April, Mr O emailed back explaining it was because he'd had the use of a company car in the intervening period.

Then on 2 May, Europa contacted Mr O with a notice of cancellation. They said they hadn't heard back from him about the gap between the two policies. And, "*as we've not yet heard from you, we can no longer keep your policy running*". They told him his policy would be cancelled from 9 May and reminded him it would be an offence to drive without insurance. (Europa also issued another notice the next day cancelling Mr O's policy from 10 May.)

On 9 May, Europa wrote again saying Mr O's "*details are not acceptable to your insurer*". And, again, they said his policy would be cancelled for that reason; this time from 16 May.

On 15 May, Mr O complained to Europa about the cancellation of his policy and about the service he'd received. He pointed out Europa's letter cited "*the issue we have previously discussed*", but Mr O said he'd been given no explanation for the cancellation. And he said Europa's letter wasn't true because they'd never had such a discussion. Mr O also said they hadn't mentioned refunding his premium. He enquired about this and asked Europa to clarify their position.

Mr O has also told us that after he took out the policy, he received about 30 telephone calls, and many texts, which he felt amounted to harassment. He says when he called to complain, he was given no explanation for this behaviour. Instead, Europa told him they were cancelling his policy but he wasn't told why.

On 21 May, Europa wrote again, saying they couldn't keep the policy running "*due to the outstanding issue(s) below*". But there was no issue stated and no reason given. This time they said the policy would be cancelled from 28 May.

On 21 May, Europa also sent their final response letter. They said they'd partially upheld Mr O's complaint. Because they accepted he'd emailed on 30 April to explain the gap in cover. They apologised for the delay in addressing this.

Europa went on to say that, on 9 May, they'd been told by Mr O's insurer that they'd received notification from the Claims and Underwriting Exchange (or CUE, a national database of reported insurance claims) of an undisclosed incident or claim in September 2018. They said because Mr O hadn't disclosed this, they couldn't have offered cover with the insurer his policy was with. They explained that while Mr O's complaint was being investigated, the initial notice of cancellation was itself cancelled. But then on completion of the investigation, Europa had sent another cancellation notice, telling Mr O that his policy would be cancelled from 28 May. This date has since been confirmed.

Europa also told Mr O they couldn't trace the multiple telephone calls he said they'd made. But Europa said they'd reviewed the call Mr O had made to them on 10 May, addressing an issue he'd raised with the way a member of staff had spoken to him. They said they didn't agree that their staff were unaware of the complaints process and said they thought Mr O's call had been addressed in a polite and professional manner.

On 29 May, Europa wrote again, confirming Mr O's policy had finally been cancelled from that date. They said this was because his details were not acceptable to his insurer.

On 19 June, Europa wrote to confirm once again that Mr O's policy had been cancelled. They also said Mr O had an outstanding balance of £76.42 which hadn't been paid and that this debt had been passed to a debt collection agency.

Mr O wasn't happy with Europa's response. In July 2019 he brought his complaint to us. He said that as he'd lost his premium, he'd paid for insurance he didn't get. And he told us that because of all the uncertainty caused by Europa, he wasn't sure whether he was insured to drive or not, so was unable to use his car for a month. He asked for compensation of £150.

In October, our investigator sent out her view. In terms of Mr O's allegations of harassment, she said she thought that if Europa had called him multiple times they were just keen to contact him for the outstanding information. In terms of being refunded following cancellation of his policy, she said she thought Europa were being reasonable in asking him to pay the outstanding balance, direct debit and debt recovery fee, and encouraged him to do so.

Our investigator also said she wasn't able to address all aspects of Mr O's complaint, because she felt some were the insurer's responsibility. So, she set up a new complaint against the insurer to deal with the cancellation of the policy and the letters Mr O was sent about the cancellation and his proof of no claims. As this is a separate complaint, I won't be addressing it here.

In November, Mr O said he disagreed with all of the investigator's findings and asked for his case to be considered by an ombudsman. So, his case has now come to me for a decision.

my provisional decision

In my provisional decision, I said:

What would the insurer have done if Mr O had made full disclosure?

Europa told us that during his online application, Mr O was asked whether he or any of the drivers on his policy had had, or caused, any accidents, claims or damage involving any motor vehicle, even if the claim hadn't been made by him, and regardless of blame, in the

last five years. Although Mr O had said that there hadn't been any, the CUE identified an incident or claim in September 2018.

So, Europa said they were right to cancel Mr O's policy because when it was discovered he hadn't disclosed an incident which had occurred in the previous 12 months, the risk became unacceptable to his insurer, who have confirmed this.

But I need to establish whether Europa asked Mr O the right question, and provided the right information to help answer it. So, I've looked at a screenshot provided by Europa of the claim question asked. It asks: *"Have you had any motor accidents, claims or losses in the last five years? This is regardless of who/what was at fault or if a claim was made or not."* And in the note below the question, it states: *"You must declare any claim that has been made on your policy... "If your claim is still being processed, you need to declare this too. If you're unsure at this time who was at fault, please declare that you, the policyholder were at fault."*

We also asked Mr O whether he could recall what happened and whether he'd made an earlier claim but forget to declare it. He said he couldn't remember whether he'd been asked about all incidents or just claims but as the incident in question had been a *no-fault claim* that was still being decided, he didn't think Europa expected it to be disclosed. Because he wasn't "unsure" as to the question of fault – he was perfectly sure the other party had been liable. And he confirmed that he hadn't made any claim. He also said he didn't think he'd been provided with any guidance in answering the question.

I've also asked Europa whether Mr O was asked about all *incidents* or just *claims*. Because this has a bearing on how Mr O responded too, and on whether Europa's response was justified. The broker's Statement of Fact suggests the insurer wanted to know about all *incidents*. Because it asks: *"Have you or any person who will drive the car had any accidents, claims, damage, theft or loss involving any motor vehicle (including car, motorcycle or van) during the past five years, whether or not a claim was made, and regardless of blame?"* And Mr O ticked 'No'.

But it seems that Mr O had been in an accident of some sort, though it's not clear what actually occurred, so he probably should have answered 'yes' to this question. And a lot of his subsequent difficulties might have been avoided if he had.

But I think the screenshot indicates that the guidance was misleading because it suggests only *claims* had to be declared, which wouldn't have assisted Mr O. And this was under circumstances where there was some doubt as to liability. So, because of the misleading nature of the guidance, and the lack of clarity, I think the brokers themselves were partly responsible for the way Mr O responded and, ultimately, for the cancellation of his policy.

And I think the broker should have investigated the alleged misrepresentation more thoroughly and considered whether or not it was actually Mr O's fault, given the guidance he was offered. And they should have liaised with the insurer and made sure the policy didn't get cancelled.

But if Europa still insisted the policy was cancelled, then they could have liaised with Mr O and suggested he cancel it rather than it effectively being cancelled by the insurer. Because while they were entitled to cancel, I'd expect them to offer Mr O the opportunity to cancel himself. Because this would avoid a cancelled policy on his record, bearing in mind it was their guidance – at least in part - that led to the cancellation.

I'm also concerned because it looks as if Europa wrongly told Mr O that if he'd declared the incident, they wouldn't have offered cover anyway. Because the broker said they couldn't have arranged cover with the insurer concerned. This looks like an error, as the underwriting criteria suggests they could have offered cover, albeit at a higher premium.

So, for all these reasons, I think it would be fair and reasonable for Europa to offer Mr O £150 in compensation for distress and inconvenience for providing him with ambiguous guidance leading him to giving an incorrect answer, then for not allowing him to cancel his policy himself, and for and wrongly informing him he couldn't be offered cover.

I also think Europa should write Mr O a letter explaining that his policy was cancelled unnecessarily which he can show to other insurers in the future.

Service provided to Mr O

Mr O said he was unhappy that he'd been given no real explanation for cancellation of his policy. So, I've looked at the letters from Europa I've described above. There are a lot of them and they are contradictory. And in the telephone conversation of 31 May, which I've listened to, the call handler told Mr O it was normal practice for them to send out "*generic*" letters which "*sometimes was used to cover many scenarios*". So, I do think Europa's various letters were genuinely confusing for Mr O and I think they could certainly have handled this a lot better.

Mr O also said he was unhappy that Europa had contacted him repeatedly. In the telephone conversation of 31 May, he said that besides all the calls, on one occasion, he got 15 texts in 24 hours telling him his insurance would be cancelled the following day. And he felt this constituted harassment. And because Europa seem to have processed the cancellation of his policy several times, texts on this scale were sent to him on several occasions. And Mr O said he was also greatly concerned because he wasn't sure whether his policy was live or not. And it meant that he didn't drive for a month and was inconvenienced by this.

Europa's call handler, who went through Mr O's file in great detail, told him they'd "*been unable to locate multiple*" calls. When Mr O challenged this, she stressed the word 'multiple' so I think she conceded that calls had been made. She also didn't challenge Mr O's account of the large number of texts he'd received. And I think it would be reasonable for Europa to try to inform someone that their insurance was about to be cancelled. But I have no reason to doubt Mr O's account, and because Europa accepted they 'cancelled' the policy at least four times, if their letters are anything to go by, I can see that Mr O probably received a great many messages. And because Europa had already got it wrong about his NCB discount information, I can also see that he might very well be confused and anxious.

Finally, Europa said they'd reviewed the call of 10 May which Mr O complained about. They didn't agree their staff were unaware of the complaints process or that the call hadn't been handled in a polite and professional manner. I've listened to this call and, in this instance, I agree with Europa. Mr O did have to wait 25 minutes before his call was answered and it turned out to be an overlong and frustrating conversation. But I think misunderstanding arose when Mr O and the call-handler were at cross-purposes over his latest complaint which related to his allegation of harassment. And this wasn't helped by Mr O dominating the conversation. But I think the call-handler and her manager were aware of Europa's complaints procedure. And both were polite and restrained throughout.

So, while I don't think Europa did anything wrong in respect of this last conversation, I think it would be fair and reasonable for Europa to pay Mr O a further £50 for the distress and inconvenience caused by their many, contradictory letters and repeated calls and texts.

Refund of premium and charges

Mr O was unhappy that he'd paid his premium and not been refunded by Europa when the policy was cancelled. On 19 June, Europa's letter said he had an outstanding balance of £76.42 which hadn't been paid so the debt had been passed to a debt collection agency.

Europa explained they'd requested a direct debit for £51.42. And as the call handler had explained on 31 May, this payment was due "*for the time on cover*". That is, the short period Mr O was being covered by the policy. A £25 debt recovery fee was also added, totalling £76.42. Though this debt was put on hold during Mr O's complaint, Europa said it remained outstanding.

As Mr O's policy was cancelled, rather than avoided, Europa, were entitled to charge for his period on cover as this was what the insurer wanted for providing this cover. And Europa argued that Mr O had had the benefit of cover even in the short period between his policy starting on 23 April and eventually being cancelled on 28 May.

But, apart from the premium itself, it's difficult to see what this debt was actually for. So, I've asked Europa to provide a full breakdown of exactly what Mr O was charged - and for what. Europa then produced a "premium breakdown" stating that Mr O was, in fact, charged a total of £167.12. But after setting off an amount, Mr O owed £76.42. And Europa said this had been passed on to a debt collection agency although there was no mention in the breakdown of the "debt recovery fee" on this occasion.

After seeking further clarification, in September 2020, Europa provided a new "premium breakdown" which stated Mr O owed £159.50.

But I'm satisfied that Mr O hasn't paid any of these fees. And as he isn't even aware of the most recent breakdown, I think it would be fair and reasonable for it to stay that way. Because Europa have told us that there was no outstanding balance at the point of cancellation and because they made a mistake in cancelling Mr O's policy in the first place, I don't think Mr O should be made responsible for any ancillary charges at all.

And as for the cover which Europa said they were providing for Mr O for the short time before they cancelled his policy, as I've demonstrated above, such cover was intermittent at best. So, I think it would be fair for Europa to return any premium which Mr O did pay as well.

So, I think it would be fair and reasonable for Europa to waive the £159 outstanding because Mr O didn't use his car over this period due to the confusion over cancellation and general lack of clarity. And they should stop making any further attempts to take any of these amounts from Mr O. And they should also inform their debt collection agency of their decision. And they should also to take all necessary steps to ensure Mr O's credit file is not adversely affected. And they should return Mr O's premium.

the response to my provisional decision

Mr O accepted my decision, suggesting the following additional points:

- that payments are made into the particular bank account he specifies;
- besides Europa's official letter explaining his policy was cancelled unnecessarily, Europa also updates CUE, the national insurance database along the same lines;
- besides informing the debt collection agencies that there was no debt to pursue, Europa also informs the credit reference agencies along the same lines.

Europa thought my decision appeared to rely on the view that the guidance was misleading because it suggested only *claims* had to be declared. They provided a screenshot of the online question they said Mr O had had to answer when he took out his policy. They said this said requested disclosure of any *accidents, claims or losses*. And they maintained that clear instructions were provided to Mr O on what information was required. And it was the non-disclosure of this information on his part which led to the cancellation of the policy.

Europa also argued that as the policy had been in force between 23 April 2019 and 28 May 2020 and cover was provided, the premium charged for this period was justified.

So, now the case has been passed back to me to for a final decision.

my findings

I've re-considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I've also considered again my provisional findings.

I think the additional points Mr O has raised are reasonable and I'm satisfied that it would be fair and reasonable for Europa to carry these out as I've specified below.

In terms of Europa's argument that they'd provided clear instructions on what was required of Mr O, I've taken another look at the screenshot they sent me recently with their response to my provisional decision. And I see that they'd previously sent the same screenshot in August 2020 too. It asks: "*Have you had any motor accidents, claims or losses in the last five years?*" *This is regardless of who/what was at fault or if a claim was made or not.*" And on that basis alone, I'd tend to agree with Europa that it should have been clear to Mr O what was required from him.

But having looked back through our records again very carefully, I can see that this isn't the same screenshot that Europa originally sent us on 7 October 2019, which sits on the file. And which they themselves described as being part of Mr O's "online journey" at the time he took out his policy. This asked: "*Have you had any driving incidents or made any insurance claims in the past five years?*"

The difference in wording here is subtle but I do think it's significant. Because the question originally asked of Mr O in 2019, suggests to me that the applicant is being asked whether he or she had made any claims himself. And the guidance notes below don't contradict this. And of course, Mr O hadn't made any insurance claims, so he answered the question in good faith. So, I don't think it's fair that Mr O should be penalised for answering the question in the way he did.

While I accept that, on one view, Mr O's policy was theoretically in force between 23 April and 28 May, Europa also told him that this policy had been cancelled no fewer than four times, with effect from a variety of dates, over the same period. So, I don't think Europa is

justified in claiming that a genuinely viable policy was in place and I think it would be fair and reasonable for them to retain Mr O's premium. So, I maintain my view that Europa should return this.

So, having considered the response to my provisional decision, I've no reason to depart from the essential findings I've already reached in this case, other than in the ancillary details I have added below. So, my decision remains the same.

my final decision

Having considered the various parts of Mr O's claim, for the reasons set out above, my final decision is to uphold his complaint. So, I direct Europa Group Limited to:

- pay Mr O £150 for the distress and inconvenience caused by the ambiguous guidance provided with his policy;
- write Mr O an official letter explaining that his policy was cancelled unnecessarily;
- inform CUE, that Mr O's policy was cancelled unnecessarily;
- pay Mr O a further £50 for the distress and inconvenience caused by contradictory letters and repeated calls and texts;
- cancel any outstanding payments due from Mr O, stop claiming these and inform the debt collection agency that there is no debt to pursue;
- inform the credit reference agencies that there is no debt to pursue;
- return Mr O's premium; and
- make all payments into the bank account whose details Mr O has provided

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 10 January 2021

Simon Stanley
ombudsman