

complaint

Mr Y has complained about the service he received from M. C. Edwards (Insurance Brokers) Limited ("MCE") when arranging insurance for his motorcycles.

background

In September 2011 MCE arranged a motor insurance policy for Mr Y in respect of two of his motorcycles. Mr Y paid an initial deposit of £248.89, and he understood that he would pay a further nine instalments over the remaining period of policy cover. When Mr Y received his policy documentation, it included a credit agreement that related to the outstanding premium payments due.

Mr Y states that he had not intended to take out a credit agreement in respect of the premiums due, and he therefore signed and returned a '*Cancellation Request Form*' to cancel the credit agreement. MCE issued a letter to Mr Y dated 18 October 2011 stating that "*as payment terms have not been maintained, the agreement has defaulted with an outstanding balance.*" The letter went on to explain that the policy would be cancelled in seven days.

Mr Y called MCE on 22 October 2011 stating that he did not want to cancel the policy, but also did not wish to take out a finance agreement. Mr Y explained that he was therefore intending to pay the remaining outstanding premium. However, during the course of this conversation, Mr Y decided that due to the service he had received, he did want the policy cancelled. He also requested that MCE provide him with proof of his no claims discount ("NCD").

Subsequently, MCE wrote to Mr Y confirming that his policy had been cancelled, and stating that there was an outstanding balance of £122 under the policy. When Mr Y refused to pay this sum, it was increased to £158 to reflect an additional debt recovery charge.

Mr Y disputed that he was liable for this sum. In response, in December 2011 MCE stated that the policy had been cancelled in accordance with its terms of business. It did however state that it had secured a waiver of the sum of £158, and asked that Mr Y sign and return a settlement form to allow this balance to be removed. Mr Y disputes that a settlement form was included with MCE's letter, and no settlement form was returned to MCE. MCE has explained to this service that because Mr Y did not return the settlement form, it would not issue confirmation of his NCD entitlement to Mr Y.

When later reassessing Mr Y's concerns, MCE made an offer to refund to him a sum of £89.82. Mr Y rejected the offer made and brought a complaint to this service. He has stated that because MCE did not provide him with proof of his NCD, he could not afford to insure his motorcycles, and instead arranged Statutory Off Road Notification (SORN) for them. Mr Y has commented that he has spent much time and incurred expense in his dealings with MCE. He has also highlighted that during the course of dealing with his complaint, MCE provided him with a document that it stated was a copy of its letter dated 18 October 2011. However, this document differs in its content to the original letter dated 18 October 2011 which Mr Y retained, and Mr Y is concerned that this represents an attempt by MCE to provide misleading evidence.

Our adjudicator upheld this complaint. His view was that when initially responding to Mr Y's complaint, MCE should have offered a pro rata refund to reflect the period that Mr Y had

been provided with cover under the policy. By not doing so, and at the same time declining to provide Mr Y with proof of NCD entitlement, the adjudicator concluded that MCE had prevented Mr Y obtaining insurance at a competitive price. This had resulted in Mr Y not using his motorcycles.

The adjudicator proposed that MCE should calculate a pro rata refund for Mr Y based upon the days he had been covered under the policy, and add simple interest at 8% per annum to any sum due. He also recommended that Mr Y should receive £300 compensation to reflect the fact that he had been unable to insure his motorcycles at a competitive price in the absence of proof of his NCD entitlement, and therefore had not been able to use them.

MCE disagreed with the adjudicator's findings. It states that Mr Y had requested the cancellation of the policy during the telephone call of 22 October 2011, and that therefore it was reasonable to offer cancellation terms in accordance with the terms and conditions which allow a cancellation fee to be applied. MCE also considers that Mr Y should have completed a settlement form when it offered to stop pursuing him for £158, as this would have allowed the release of the proof of NCD. MCE's view is that Mr Y's loss of use of his motorcycles was partly attributable to his delay in responding to the offer made to him in December 2011 until late February 2012.

Mr Y also responded to the adjudicator's view. He has stated that MCE did not explain to him that confirmation of his NCD entitlement was dependent upon him confirming that he accepted its offer with regard to the basis of the policy cancellation. Mr Y has also highlighted that after he returned the '*Cancellation Request Form*' to cancel the credit agreement, he received a letter from MCE that confirmed the credit agreement had been cancelled, but did not mention that Mr Y would need to contact MCE to make further payment arrangements.

Mr Y has reiterated his concerns regarding why MCE provided him with a document that it suggested was a copy of the letter sent to him dated 18 October 2011, but was not in fact identical to the original letter. Mr Y has pointed out that the original letter sent to him on this date did not ask him to call MCE to arrange premium payments, whereas the 'copy' letter did. He has also asked that further consideration be given to the compensation he should receive to reflect the time and effort he has expended dealing with this dispute.

my findings

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

I note that in his initial complaint submission, Mr Y commented that in October 2010 he was stopped by the police who understood from database records that the motorcycle Mr Y was riding at the time was uninsured. Further enquiries confirmed that cover for this motorcycle was in place. Although Mr Y considered that errors in the database records may have been the fault of MCE, I understand that he has subsequently resolved this matter directly with the insurer of the motorcycle at the time, and I therefore do not intend to address this issue further.

The crux of this complaint relates to MCE's handling of the cancellation of Mr Y's policy, and the delay in providing NCD entitlement details to Mr Y. Mr Y has provided this service with the letter he received from MCE dated 18 October 2011 that confirmed its intention to cancel

the policy. Whilst investigating this complaint, MCE provided Mr Y with a further document that it stated was a copy of this letter. This document included the following sentence:-

“Please call us on the number below to make your arrears payment of £746.68 as soon as a [sic] possible to rectify this situation and maintain your insurance cover.”

The original letter dated 18 October 2011 that Mr Y has submitted did not include this sentence, and so it is clear that the later document provided by MCE was not a copy of the original letter.

Mr Y has suggested that when submitting the ‘copy’ letter, MCE may have been attempting to provide misleading information to support the stance it has taken in this complaint. Our adjudicator asked MCE to explain the discrepancies with this document. MCE has responded with a statement from its IT manager. MCE’s explanation is that between October 2011 when the original letter was sent to Mr Y and May 2012 when the copy was sent, the template of this standard letter was changed, with some of the wording being altered. MCE has highlighted that the reference numbers at the bottom of these two letters differ, reflecting the change in the template that took place.

Whilst I understand why Mr Y has concerns regarding the submission of the ‘copy’ letter, on balance I am satisfied with MCE’s explanation of the discrepancy. It seems that MCE’s initial suggestion that the document it sent to Mr Y in May 2012 was a copy of the letter that it issued to Mr Y on 18 October 2011 was a genuine error on its part. However, I consider that the key issue in this element of the complaint relates to the detail that was included in the actual letter sent to Mr Y on 18 October 2011.

As Mr Y has pointed out, the letter he received did not include the sentence detailed above that advised him to contact MCE to arrange the premium payments and maintain insurance cover. Instead, this letter informed Mr Y that he was being given notice that all cover was to be cancelled in seven days. There was no suggestion that as an alternative to the policy’s cancellation, Mr Y should contact MCE to discuss the payment of premiums.

The ‘*Cancellation Request Form*’ that Mr Y returned to cancel the credit agreement included the statement that “...I/we appreciate that I/we will need to contact MCE Insurance (Motorcycle) and make alternative arrangements to pay for the insurance cover.” However, the letter sent to Mr Y confirming that this form had been received did not reiterate that he needed to contact MCE to make alternative premium payment arrangements.

Mr Y has explained that as he had already paid a deposit that represented a significant proportion of the yearly premium applicable under the policy, and bearing in mind that the next premium instalment was not due until 1 November 2011, he understood that it would be acceptable for him to pay the outstanding premium balance on 29 October 2011. Taking into account the details included in MCE’s letter dated 18 October 2011 and the letter confirming cancellation of the credit agreement, my view on balance is that Mr Y reasonably understood that he would be able to maintain the insurance policy if he paid the outstanding premium prior to 1 November 2011.

In the circumstances, I do not consider that when the policy was cancelled it was reasonable for MCE to apply any cancellation charge, even where this was detailed in the documentation MCE had previously provided Mr Y. Instead my view is that Mr Y should have received a pro rata refund, without the imposition of any cancellation charge, to reflect the number of days that Mr Y had received cover under the policy.

In terms of the delay in providing Mr Y with confirmation of his NCD entitlement, following the cancellation of the policy, MCE initially informed Mr Y that he had an outstanding balance to pay of £122, and it later raised this to £158 to reflect the addition of a debt recovery charge. As I do not consider that it was reasonable for MCE to apply any charge in relation to the policy cancellation, my view is that MCE should not have attempted to pursue the outstanding balance that it claimed Mr Y owed.

If Mr Y had received a pro rata refund in October 2011 when the policy was cancelled, instead of being pursued for additional charges, it seems that he would also have received confirmation of his NCD entitlement at this time. This would have allowed Mr Y to obtain more competitive quotes for insuring his motorcycles. Instead, Mr Y has stated that the cost of insurance led him to declare the motorcycles off road under the SORN declaration.

My view is that by failing to provide NCD proof to Mr Y, MCE caused him to lose the use of his motorcycles. I note Mr Y's comments that he has also spent much time and effort attempting to resolve this matter. Awards made by this service in respect of unnecessary distress and inconvenience caused to a consumer by a business are in general modest. Taking into account the length of time that Mr Y was unable to use his motorcycles, and the problems he encountered in his dealings with MCE, my view is that a compensation payment of £300 is appropriate in this case.

my final decision

My final decision is that I uphold this complaint, and require M. C. Edwards (Insurance Brokers) Limited to carry out the following actions:-

- Reimburse Mr Y with a pro rata refund of his premium that reflects the number of days that Mr Y received cover under the policy, without the imposition of any cancellation charge
- To the sum due should be added simple interest at 8% per annum (less tax if properly deductible) from the date of cancellation to the date of payment
- Pay Mr Y £300 compensation.

I make no other award.

John Swain
ombudsman