



<u>Decision Ref:</u>	2018-0048
<u>Sector:</u>	Insurance
<u>Product / Service:</u>	Rental Property
<u>Conduct(s) complained of:</u>	Mis-selling Dissatisfaction with customer service Maladministration
<u>Outcome:</u>	Substantially upheld

LEGALLY BINDING DECISION OF THE FINANCIAL SERVICES AND PENSIONS OMBUDSMAN

Background

The Complainant incepted home insurance policy xxxxx549 with the Company on 8 May 2015. He later incepted home insurance policy xxxxx209 with the Company on 11 August 2016 in respect of a different property. Both of these policies were later cancelled when the Complainant rented the properties to tenants.

The Complainant's Case

The Complainant incepted home insurance policy xxxxx549 with the Company on 8 May 2015. He telephoned the Company on 8 December 2015 to enquire about transferring to rental investment insurance as he intended to rent the property out. The Company advised that it could not at that time provide a quote for rental investment insurance until it had all the relevant information, including the type of tenants. The Complainant later telephoned on 23 December 2015 to advise that he had yet to find tenants and that the property was now empty. He telephoned again on 7 January 2016 to advise the Company that the tenants were moving in and wanted the policy to come into affect from 9 January 2016. During a further telephone call on 11 January 2016 the Company Agent advised the Complainant that there was no cover in place, leaving the Complainant *"uncovered in the middle of the night"* and without cover for a short period.

The Complainant incepted home insurance policy xxxxx209 with the Company on 11 August 2016. In this regard, he had purchased a house which he intended to rent, but first

wanted to occupy the house himself for a short period in order to prepare it for rental by way of some refurbishment and decorating. The Complainant telephoned the Company and explained this to the Agent who *“accepted that there would be “no problem” switching to rental policy when I went to “rented” state and sold me a residential insurance policy – full in the knowledge that it would change”*.

The Complainant later telephoned the Company on 29 August 2016 to advise that he had rented out the property and states *“they did not immediately complete the details of the change of policy – however they did repeat that there was “no problem, and the cover is in place”*. As a result, the Complainant proceeded to let his tenants move in *“as I had peace of mind insurance in place”*. However, when he later telephoned the Company on 31 August 2016 to discuss changes to the policy and advised that the tenants were three mature students, *“I was informed that they were pulling the cover”*.

In this regard, the Complainant considers that the Company *“failed in [its] duty of care to their customer and left me and my tenants in a stressful, traumatic and very vulnerable position”*. In addition, he submits that *“I later found that many companies operate this discriminatory policy”*, that is, not providing rental property insurance where the tenants are students, and that *“I was in financial peril for some time owing to this error”*.

The Complainant’s complaint is that the Company provided him with poor customer service in relation to the two home insurance policies in question, when he sought to rent these properties out.

The Company’s Case

The Company notes that the Complainant complains about two different home insurance policies that he previously held with the Company and it has determined the following in relation to his complaints:

Policy xxxxx549:

The Complainant incepted this home insurance policy with the Company on **8 May 2015**. Company records indicate that the Complainant telephoned on a number of occasions in December 2015 and January 2016 as he intended to switch this home insurance policy to a rental investment insurance policy. During a telephone call on 9 December 2015, the Agent told the Complainant that the Company would need all details before it could make the change, as the rental insurance policy would be a new policy. The Company notes that certain factors affect the acceptance criteria for a new policy, which include such factors as claims details and the type of tenants renting the property.

When he telephoned on 7 January 2016 to switch this home insurance policy to a rental investment insurance policy, the Company offered the Complainant a new premium for the change without completing a full policy review or confirming any claims details with him. The Agent confirmed that they would call the Complainant back later with an update on any refund that would be due from the existing home insurance policy before making

the new rental investment insurance policy live. The Company acknowledges that the Complainant never received this call back.

In addition, the Company accepts that the Complainant did inform the Agent of an open claim on his existing policy during a call on 23 December 2015 when he telephoned to advise that he would not be switching the policy until after the Christmas period as he had not yet found any tenants and that the property was currently unoccupied. The Company apologises that its Agent did not pick up on this at the time nor was the Complainant's file noted to reflect this information.

As he had not received a call back as advised during the aforementioned telephone call on Thursday 7 January 2016, the Complainant telephoned the Company on Monday 11 January 2016 to proceed with the new policy. The Agent went through a full policy review during this call and the Complainant confirmed the claims details. The Company then referred the open claim to its underwriters for consideration, before setting up the new policy. The Company accepts that it clearly did not outline this referral to the Complainant, nor did it outline to him that there would be a 24 hour turnaround in obtaining a decision from the underwriter in question before proceeding with the new rental investment policy.

When cover could not be confirmed to the Complainant on 11 January 2016, the Agent escalated the matter to a Supervisor. The Supervisor telephoned the Complainant to inform him that there was no cover in place whilst the underwriter was making its decision, which was incorrect. As the Company is an insurance intermediary, it needs to confirm which cover is in place with the underwriter before it informs the customer of same. The Company notes that the Supervisor did however confirm to the Complainant by telephone on 12 January 2016 that cover was in place for the tenants whilst awaiting a decision from the underwriter. The Supervisor also assured the Complainant that he would review the events to establish what failings had occurred and the Complainant asked that the Supervisor who he had been dealing with to come back to him following his review. The Company apologises that this did not happen.

The Company acknowledges that it is clear from reviewing the Complainant's file and telephone calls in relation to this matter, that this was an extremely poor customer experience. The Company did not explain the process to the Complainant clearly enough, errors were made and the Company failed to follow up with the Complainant when it should have. The Company acknowledges that this is very disappointing and seeks to assure the Complainant that these errors were taken very seriously and escalated to Management in the relevant department and that corrective action and retraining was taken where appropriate.

Policy xxxxx209:

The Complainant incepted this home insurance policy with the Company on **11 August 2016**. The Company notes that the Complainant made it aware over the course of a number of telephone calls when setting up this policy, that he would be renting out the property in the near future. The Agents who the Complainant spoke with at this time told

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him that this would be no problem and to call when he wanted to make the switch. The Company notes that the Agents in question did not advise the Complainant at this stage that certain factors affect the acceptance criteria for a rental investment policy, including any claims details and the type of tenants renting the property. The Company is very disappointed that this happened again.

The Complainant telephoned the Company on 29 August 2016 to proceed with the change in insurance and the Agent confirmed that the change would be no problem but did not confirm any of the risk details or who would be renting the property. The Agent did advise the Complainant that he would contact the underwriters the next morning as they were closed at that time, and organise for the change in insurance. The Complainant asked for confirmation during this telephone call that the tenants were covered in the property while he was awaiting a call back from the Company the following day and the Agent confirmed that the tenants were covered.

As he had not received a call back the following day as advised during the telephone call on Monday 29 August 2016, the Complainant telephoned the Company on Wednesday 31 August 2016. During this telephone call, the Complainant confirmed that the property was being rented by mature students. The Agent was unable to get a quote on the system at that time and advised that she would call the Complainant back later when the system was back up and running. The Company telephoned the Complainant on Thursday 1 September 2016 and informed him that it could not switch the policy to a rental investment insurance policy due to the fact that students were residing in the property, as this was outside of the acceptance criteria of the underwriter's home policies through the Company. The Company secured a full refund on this home insurance policy for the Complainant.

Having examined his two complaints in full, the Company wrote to the Complainant on 19 October 2016, as follows:

"This has been an extremely poor customer experience with [the Company]. We strive to provide a quality service to all our customers and clearly your recent dealings with us have fallen short of our own high standards...I am very disappointed that you had to constantly contact us on numerous occasions on both your policies to get the level of cover that you required. I understand how frustrating this experience has been, and the inconvenience this has caused you. Please accept my apologies for this, and for the delay in resolving this for you. I assure you corrective action will be taken as appropriate with all relevant agents involved in both home policies. I'm very disappointed with the errors that were made on both your insurance policies, which resulting (sic) in placing you in a difficult situation. We would like to offer you a goodwill gesture of €100 for the inconvenience caused and I will organise for this to be issued by cheque which you will receive within the next 10 days".

The Company acknowledges that it is clear from reviewing its file notes on this matter that there were a number of incidents of delay, lack of follow up, and incorrect information provided to the Complainant. However, it also notes that when these came to the light, the Company liaised closely with its underwriter to resolve the matter and that at all times its Agents that dealt with the Complainant acted professionally.

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When dealing with the Complainant in August 2016 about updating his insurance to cover a rental property, the Company did not request all relevant information in respect of tenants. The Complainant understood that cover could be put in place, which unfortunately turned out not to be the case. Whilst this is obviously very unfortunate and should not have happened, the Company notes that this was not a deliberate attempt to mislead the Complainant. This was an error that was made, and which was addressed when it came to light.

The Company acknowledges that the correct process was not followed at the time that the Complainant sought to have his home insurance policies switched to rental insurance policies. The Company notes however that its Agents are all trained in this process and this is constantly refreshed through team briefs. In addition, telephone call evaluations are in place to monitor adherence to scripting and processes. However, the Company notes that in this instance the process unfortunately was not followed, which is human error, and confirms that this has been addressed internally.

Decision

During the investigation of this complaint by this Office, the Provider was requested to supply its written response to the complaint and to supply all relevant documents and information. The Provider responded in writing to the complaint and supplied a number of items in evidence. The Complainant was given the opportunity to see the Provider's response and the evidence supplied by the Provider. A full exchange of documentation and evidence took place between the parties.

In arriving at my Legally Binding Decision I have carefully considered the evidence and submissions put forward by the parties to the complaint.

Having reviewed and considered the submissions made by the parties to this complaint, I am satisfied that the submissions and evidence furnished did not disclose a conflict of fact such as would require the holding of an Oral Hearing to resolve any such conflict. I am also satisfied that the submissions and evidence furnished were sufficient to enable a Legally Binding Decision to be made in this complaint without the necessity for holding an Oral Hearing.

A Preliminary Decision was issued to the parties on 6 June 2018, outlining the preliminary determination of this office in relation to the complaint. The parties were advised on that date, that certain limited submissions could then be made within a period of 15 working days, and in the absence of such submissions from either or both of the parties, within that period, a Legally Binding Decision would be issued to the parties, on the same terms as the Preliminary Decision, in order to conclude the matter.

In the absence of additional submissions from the parties, the final determination of this office is set out below.

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The complaint at hand is, in essence, that the Company provided the Complainant with poor customer service in relation to the two home insurance policies in question, when he sought to change the nature of his cover, in order to rent these properties out.

Policy xxxxx549:

The Complainant incepted this home insurance policy with the Company on 8 May 2015. He telephoned the Company on a number of occasions in December 2015 and January 2016 as he wanted to switch this home insurance policy to a rental insurance policy.

Having listened to a recording of the telephone call that took place between the Company and the Complainant on 9 December 2015 at 10.44am, I note that the Agent advised the Complainant that *"we have to cancel this [home insurance policy] and set up a rented one there as they're two different types of policies so we'll have to basically cancel one and set up a new one but we'll have to run through the whole quote as if it is a new policy"*. The Agent also advised the Complainant that the Company would require all details before it could open the new rental insurance policy as certain factors affect the acceptance criteria for a new policy, for *"it may depend if we can quote or not, we can't cover lets say if its rented to students or anything like that or health board lettings"*.

The Complainant telephoned the Company on 7 January 2016 to advise that the tenants were due to move in and that he wanted to effect the rental insurance from 9 January 2016. The Agent then quoted the Complainant a new premium without completing a full policy review and confirmed that she would call back later with an update on any refund that would be due from the existing home insurance policy before making the new rental insurance policy live. I note that the Company acknowledges that the Complainant never received this call back.

As he had not received this call back, the Complainant took the initiative and telephoned the Company on 11 January 2016 to proceed with the new policy. The Agent then went through a full policy review and the Complainant confirmed details of an open claim relating to a chimney crack. The Company referred this open claim to its underwriters for consideration. In this regard, the Company accepts that its Agent clearly did not outline this referral to the Complainant, nor did the Agent outline that there would be a 24 hour turnaround in obtaining a decision from the underwriter before proceeding with the new rental insurance policy.

During a later telephone call on 11 January 2016 at 4.44pm, the Company Agent advised the Complainant that there was now no cover in place on the property in question, as follows, *"well at the moment, to be honest with you, there is no cover at the moment"*. Having listened to the recording of this call, it is clear to me that the Complainant was obviously anxious that there was now no insurance cover in place in respect of the property. The Agent transferred the Complainant to her Supervisor, who also advised the Complainant that there was no cover in place whilst the underwriter was making its decision.

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I note that this information was incorrect as the underwriters confirmed to the Supervisor the following morning, on 12 January 2016, that as the Complainant had an active policy with them at that time, that is, the existing home insurance policy, that it would not leave him with no cover whilst it was making a decision on the new rental insurance policy. Whilst I note from the recording of this telephone call that the Complainant was relieved when the Supervisor confirmed to him on 12 January 2016 that cover had been in place for the property whilst awaiting a decision from the underwriter, this error did result in the Complainant thinking he had no insurance cover whatsoever for his property overnight on 11 January 2016. In addition, I note that the Supervisor also assured the Complainant during this telephone call that he would review these events to establish what failings had occurred and the Complainant asked that he would come back to him following his review. The Company has apologised that this did not happen.

Policy xxxxx209:

The Complainant incepted this home insurance policy with the Company on 11 August 2016. I note that the Complainant made the Company aware over the course of a number of telephone calls when setting up this policy, that he would be renting out the property in the near future and that the Agents he spoke with told him that this would be no problem and to call when he wanted to make the switch. I also note that these Agents did not advise the Complainant at this stage that certain factors affect the acceptance criteria for a rental investment policy. In this regard, I note that the Company states that it was very disappointed that this happened again.

The Complainant telephoned the Company on 29 August 2016 to proceed with the change in insurance and the Agent confirmed to him that the change would be no problem but did not confirm any of the risk details or who would be renting the property. The Agent advised the Complainant that he would contact the underwriters the next morning as they were closed at that time, in order to organise the change. The Complainant asked for confirmation during this telephone call that the tenants were covered in the property while he was awaiting a call back from the Company the following day and the Agent confirmed that the tenants were covered.

As he had not received a call back as advised, the Complainant telephoned the Company on 31 August 2016, during which he confirmed that the property was being rented by mature students. The Agent was unable to get a quote on the system at that time and advised that she would call the Complainant later when the system was back up and running. The Company telephoned the Complainant on 1 September 2016 and informed him that it could not offer him a rental insurance policy due to the fact that his tenants were students, as this was outside of the acceptance criteria of its underwriter for home insurance policies.

It is clear from listening to the recordings of the telephone calls that took place between the Complainant and the Company during December 2015 and January 2016 in respect of home insurance policy xxxxx549 and the telephone calls throughout August 2016 and September 2016 in respect of home insurance policy xxxxx209, that there were repeated instances where the Company provided the Complainant with a poor level of customer

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service. In this regard, there were a number of incidents of delay, lack of follow up, and incorrect information provided to the Complainant, via a number of its agents, including a supervisor.

I note that the Company previously acknowledged these errors and in its correspondence to the Complainant on 19 October 2016 states, as follows:

“This has been an extremely poor customer experience with [the Company]. We strive to provide a quality service to all our customers and clearly your recent dealings with us have fallen short of our own high standards...I am very disappointed that you had to constantly contact us on numerous occasions on both your policies to get the level of cover that you required. I understand how frustrating this experience has been, and the inconvenience this has caused you. Please accept my apologies for this, and for the delay in resolving this for you. I assure you corrective action will be taken as appropriate with all relevant agents involved in both home policies. I’m very disappointed with the errors that were made on both your insurance policies, which resulting (sic) in placing you in a difficult situation. We would like to offer you a goodwill gesture of €100 for the inconvenience caused and I will organise for this to be issued by cheque which you will receive within the next 10 days”.

In this regard, I note that the Company did not issue the Complainant with this cheque until 6 December 2016, some 34 working days after it had advised the Complainant that he would receive this cheque *“within the next 10 days”*.

Administrative errors are unsatisfactory and can cause considerable confusion and frustration, as it has done in this instance. The Complainant ought to have been able to rely on the expertise of the Company and its Agents with regard to information concerning his policies. I note that in October 2016 the Company offered the Complainant a goodwill gesture of €100, which it sent to him by way of cheque on 6 December 2016. Having examined the documentary evidence before me in full, and taking into account the repeated nature of the poor customer service that the Complainant received from the Company, I am not satisfied that this goodwill gesture sufficiently compensated the Complainant for the poor customer service he received, which the Company itself described as *“extremely poor”*. As a result, I intend to direct that the Company pay the Complainant an additional compensatory payment in the amount of €600 to an account of his choosing.

Finally, I note that the Complainant considers that the Company is operating some *“discriminatory policy”* in not providing rental property insurance where the tenants are students. I do not agree. In this regard, an insurance policy is like any other contract, i.e. it is based on the legal principles of offer, acceptance, and consideration. An Insurer may offer terms which can be accepted by those seeking insurance, who then elect to pay the premium requested, which represents the consideration aspect of the contract. It is at all times a matter for the Insurer to determine what terms of insurance it is willing to offer, including any exclusions that it does not wish to provide cover in respect of, based upon its analysis of the risk factors involved.

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Conclusion

- My Decision pursuant to **Section 60(1)** of the **Financial Services and Pensions Ombudsman Act 2017**, is that this complaint is substantially upheld, on the grounds prescribed in **Section 60(2)(g)**.
- Pursuant to **Section 60(4)** of the **Financial Services and Pensions Ombudsman Act 2017**, I direct that the Respondent Provider pay the Complainant an additional compensatory payment in the amount of €600 to an account of his choosing, within a period of 21 days from the Complainant's nomination of account details to the Provider.
- Pursuant to **Section 60(6)** of the **Financial Services and Pensions Ombudsman Act 2017**, I direct that interest is to be paid by the Provider on the said compensatory payment, at the rate referred to in **Section 22** of the **Courts Act 1981**, where the amount is not paid within a period of 21 days after the nomination of account details by the Complainant to the Respondent Provider.
- Pursuant to **Section 60(8)** of the **Financial Services and Pensions Ombudsman Act 2017**, the Respondent Provider is now required, not later than 14 days after the period specified above for the implementation of the directions pursuant to Section 60(4), to notify this office in writing of the action taken or proposed to be taken in consequence of the said directions outlined above.

The above Decision is legally binding on the parties, subject only to an appeal to the High Court not later than 35 days after the date of notification of this Decision.

**MARYROSE MCGOVERN
DIRECTOR OF INVESTIGATION, ADJUDICATION
AND LEGAL SERVICES**

28 June 2018

Pursuant to *Section 62 of the Financial Services and Pensions Ombudsman Act 2017*, the Financial Services and Pensions Ombudsman will publish legally binding decisions in relation to complaints concerning financial service providers in such a manner that—

(a) ensures that—

- (i) a complainant shall not be identified by name, address or otherwise,**
- (ii) a provider shall not be identified by name or address,**

and

(b) ensures compliance with the Data Protection Regulation and the *Data Protection Act 2018*.