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| <u>Decision Ref:</u> | 2018-0117 |
| <u>Sector:</u> | Insurance |
| <u>Product / Service:</u> | Pet Insurance |
| <u>Conduct(s) complained of:</u> | Lapse/cancellation of policy Complaint handling (Consumer Protection Code) |
| <u>Outcome:</u> | Partially upheld |

LEGALLY BINDING DECISION OF THE FINANCIAL SERVICES AND PENSIONS OMBUDSMAN

Background

This complaint concerns the Provider's refusal to renew the Complainant's pet insurance policy.

The Complainant's Case

The Complainant held a pet insurance policy with the Provider.

The Complainant states that she received a renewal notice, a few weeks before her policy was due to expire, however it slipped her mind to renew the policy. Some three weeks after the renewal date, she rang the Provider to renew it and was informed that as the policy had not been renewed, she was being treated as a new customer and that it was no longer selling pet insurance and therefore could not facilitate her.

The Complainant objected on the ground that she had not received any reminders. She was told on the phone that a reminder letter, as well as a cancellation letter, had been sent, but she denies this and questions the accuracy of the Provider's records. She was also told on the phone that the original renewal letter was sent on a particular date, which was before the date on the renewal letter she received. She states that this confirms that the Provider's records are inaccurate.

The Complainant believes that the Provider would have actively followed up with her, prior to the renewal date, if it had intended to continue to sell the product. She contends that she

was treated differently because the Provider had made the decision to phase out pet insurance.

The Complainant also complains about the Provider's customer service. She was told she would be telephoned by a particular manager on a particular day. The Complainant told the customer service representative that the manager would have to call her after 5pm because she could not answer her phone during working hours.

The manager did not phone her on the day in question, nor the following day. Two days after the assigned date, she was telephoned at 15.34 by the manager, who left a voicemail asking the Complainant to call back. The Complainant called back at 17.06 but was told that the manager was gone for the evening and that the manager would not be able to call her after 5pm any day as the department ceased operations at that time. The customer services representative said she would ask the manager to email the Complainant instead, however no email was ever received. Again, the Complainant contends that, if her complaint was in relation to business the Provider wanted to keep, someone would have been available to speak to her after 5pm and the Provider would have been actively following up with her.

The Complainant sent a registered letter in relation to her complaint, which crossed in the post with a letter from the Provider confirming that the policy would not be renewed, due to the failure to pay the renewal sum in time. The Complainant's letter was not responded to.

The Complainant states that her pet, a cat, was at that stage over 8 years old and the Complainant could not get pet insurance for her just at the time that she was likely to need it.

The Complainant seeks to have her policy renewed.

The Provider's Case

The Provider responds that the policy lapsed due to the failure of the Complainant to pay the premium in time. It states that it is not in a position to offer a new policy as it is no longer in the pet insurance market. It had stopped issuing new policies 18 months before the renewal date and, 6 months later, it exited the market entirely.

The Provider submits that it issued a letter shortly after the renewal date giving the Complainant 10 further days in which to pay the premium. It also states that it issued a cancellation letter.

The Provider acknowledged that its customer service in dealing with the complaint fell short of the required standard. It issued a cheque to the Complainant in the sum of €500 by way of compensation, which was accepted on the basis that the investigation of this complaint would proceed.

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.

I note that in her submission dated 30 June 2018, the Complainant states

"I supplied all the information requested and responded to all of [the Provider's] submissions; [the Provider] didn't and still haven't supplied all of the information requested of them; if they did, it was never forwarded to me for my response".

I am satisfied that the Provider has furnished sufficient information and evidence to allow me make a decision in the matter.

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 22 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.

The following submissions were received:

1. Letter from the Complainant to this office dated 30 June 2018.
2. E-mail from the Provider to this office dated 11 July 2018.
3. Letter from the Complainant to this office dated 23 July 2018.
4. E-mail from the Provider to this office dated 27 July 2018, advising it had no further submissions to make.

Following the consideration of additional submissions from the parties, my final determination is set out below.

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Renewal

The Complainant's case in relation to the renewal is that she was treated differently leading up to, and after, the renewal date because her insurance product was one which was being phased out by the Provider. She believes that she would have been treated differently if that was not the case, and that in such events, this would have resulted in the policy being renewed.

At the centre of this element of the claim is a factual dispute as to whether or not a letter was sent, following the renewal date, reminding the Complainant of the expiry of the policy and extending the time period for renewal.

The Provider has furnished a copy of such a letter, and a printout from its system stating that it was created at the relevant time, but it has not provided any evidence that it was actually sent at that time. The Complainant is adamant that she did not receive such a letter.

I note the Provider has submitted a printout from its "Dorsal" system to show that the renewal notice was processed, printed and issued on 1 April 2016. I note no similar printout has been provided in respect of the other correspondence which the Provider claim to have issued.

I also note that the Provider, in its response to a request for call recordings from this Office, states that *"we have been unable to retrieve call recordings in this case"*.

While there is no obligation on the Provider's part, pursuant to the Consumer Protection Code 2012 (the 2012 Code), to record telephone conversations, in circumstances where the conversation has been recorded, the Provider must comply with provision 11 of the 2012 Code, which provides, among other things, the following:

"11.5 A regulated entity must maintain up-to-date records containing at least the following:

- a) a copy of all documents required for consumer identification and profile;
- b) the consumer's contact details;
- c) all information and documents prepared in compliance with this Code;
- d) details of products and services provided to the consumer;
- e) all correspondence with the consumer and details of any other information provided to the consumer in relation to the product or service;
- f) all documents or applications completed or signed by the consumer;
- g) copies of all original documents submitted by the consumer in support of an application for the provision of a service or product; and
- h) all other relevant information and documentation concerning the consumer.

11.6 A regulated entity must retain details of individual transactions for six years after the date on which the particular transaction is discontinued or completed. A regulated entity must retain all other records for six years from the date on which

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the regulated entity ceased to provide any product or service to the consumer concerned.”

It is disappointing that the Provider has failed to retain a recording of the telephone conversation, and has not complied with provisions 11.5 and 11.6 of the 2012 Code in this regard.

For the reasons outlined above, I have no reason to doubt the Complainant's version of events.

Having considered the evidence and submissions furnished, I accept the Complainant's version of events. I think it very likely that, if she had received such a letter, she would have renewed her policy and this complaint would not have been brought. Further, the Provider submitted a cancellation letter, which the Complainant also denies receiving, which states that the policy was cancelled *“following [the Complainant's] recent instruction”*.

That is clearly inaccurate and adds to the doubt as to whether either letter actually issued. In addition, as highlighted by the Complainant, there is a conflict between the creation date on the Provider's system for the original renewal notice and the date actually printed on the notice sent to the Complainant. This creates further doubt in the Provider's account in relation to the correspondence.

In her submission dated 30 June 2018, the Complainant suggests that *“it would appear from [the Provider's] website that [the Provider] has re-entered the pet insurance market”*. She provides some documents from the Provider's website including a Policy Booklet and Pet Insurance Claim Form. In its response to the submission dated 11 July 2018, the Provider states that it has left the pet insurance market and that those documents remain on the website *“for customers who had cover with us until the final policy ran off”*.

I accept this explanation and in any event, I should make clear that, in reaching this finding, I do not ascribe the failure on the part of the Provider to its decision to pull out of the market for pet insurance. It is not possible nor necessary for me to decide what caused this failing.

I should also point out that it is not contested that the Complainant did receive a renewal notice from the Provider. The Provider cannot be held responsible for the fact that it *“slipped her mind”* to renew the policy. The Complainant was on notice that the policy was due for renewal and it was her responsibility to renew it.

Customer care

The Provider has rightly accepted that its handling of the Complainant's complaint was not up to the required standard. The difficulties she encountered in communicating with the Provider should not have happened and unnecessarily compounded the problems for her.

While the Provider has offered €500, I do not believe this is sufficient for its failings in this complaint.

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I note the Complainant's request that the Provider should provide her with insurance. However, as the Complainant did not renew her insurance before the Provider exited the market, it would not be appropriate for me to make such a direction. However, for the lapses in customer care, I am partially upholding this complaint and I direct that the Provider make a compensatory payment of an additional €500 to the Complainant.



Conclusion

My Decision pursuant to **Section 60(1)** of the **Financial Services and Pensions Ombudsman Act 2017**, is that this complaint is partially upheld on the grounds prescribed in **Section 60(2) (b)**.

Pursuant to **Section 60(4) and Section 60 (6)** of the **Financial Services and Pensions Ombudsman Act 2017**, I direct the Respondent Provider to make a compensatory payment to the Complainant in the sum of €500 (*in addition to the €500 already paid by the Provider*), to an account of the Complainant's choosing, within a period of 35 days of the nomination of account details by the Complainant to the Provider.

I also 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**, if the amount is not paid to the said account, within that period.

The Provider is also required to comply with **Section 60(8)(b)** of the **Financial Services and Pensions Ombudsman Act 2017**.

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.

**GER DEERING
FINANCIAL SERVICES AND PENSIONS OMBUDSMAN**

2 August 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.