



<u>Decision Ref:</u>	2018-0180
<u>Sector:</u>	Insurance
<u>Product / Service:</u>	Car
<u>Conduct(s) complained of:</u>	Disagreement regarding Pre-accident value provided Dissatisfaction with customer service Maladministration No claim bonus issues
<u>Outcome:</u>	Upheld

LEGALLY BINDING DECISION OF THE FINANCIAL SERVICES AND PENSIONS OMBUDSMAN

Background

This complaint concerns the treatment of the Complainant by the Provider after an uninsured driver drove into and damaged the Complainant's vehicle.

The Complainant's Case

The Complainant had a commercial vehicle insurance policy with the Provider. An uninsured driver drove into the Complainant's vehicle. The Complainant reported the incident to the Provider. The Complainant also contacted the Motor Insurance Bureau of Ireland ("MIBI"), which investigated the incident and told him that it would not affect his no claims bonus ("NCB").

The Complainant states that an agent of the provider told him in a telephone conversation that he could keep his vehicle for parts. Further, he states that he was told by an assessor that came to look at the vehicle that he could keep the vehicle for parts by paying €200 if the Provider paid out an agreed figure of €2,200. However, the Complainant states that he was then phoned and told that the vehicle would be picked up. He states that he protested that this was not what was agreed, however he did not take it any further as he was at the time grieving following the death of a close family member.

The Complainant states that, when his private car insurance policy was up for renewal, his premium increased from €600 to €1000. Further, he states that he was unable to obtain a quote from any other provider because his case had not been closed by the Provider. Thus, he was forced to pay the higher premium. The Complainant states that his renewal notice in respect of his commercial vehicle insurance policy stated that his NCB had been reduced to 2 years and his premium had gone up from €600 to €2,600.

He rang the Provider to complain and was told that his premiums would be higher until the prosecution of the other driver concluded.

The Complainant says that he also rang the Provider to tell it that he had a letter from the MIBI stating that the incident would have no effect on his NCB but the Provider's employee did not accept this. The Complainant then rang the MIBI, which confirmed that the Provider had written to it to the effect that the Complainant's NCB was not affected as there was no liability on the part of the Complainant. The MIBI also confirmed this by email to the Complainant. The Complainant rang the Provider's employee back and was still not believed. The Complainant was forced to contact that employee's manager and secured an apology, the closing of the case and the reinstatement of his NCB.

The Complainant contacted the Provider a number of times complaining about the employee who had disbelieved and mistreated him and the fact that he had been paid out a sum which was not the full value of his vehicle, but rather took account of the agreement that he would be able to keep his vehicle for parts, on which agreement the Provider reneged. His premium for his commercial vehicle insurance was reduced to €1,002.94 and he was offered compensation.

The Complainant seeks that the correct value of his vehicle is paid to him. He also seeks to be repaid the extra €400 he was forced to pay for his private car insurance. Finally, he seeks to be compensated for the loss, expense and inconvenience suffered as a result of the Provider's actions.

The Provider's Case

The Provider states that it settled the claim against the MIBI on the basis that the Complainant was not liable. It states that the renewal notice should have given the Complainant the maximum 6 years' NCB and that it amended the premium when the error was pointed out to it. As regards the vehicle, the Provider states that it was a Category B write-off and was deemed un-roadworthy, therefore it could not legally be released to the Complainant. The Provider maintains that the sum paid to the Complainant was a reasonable price for the vehicle and that it asked its engineers to review the valuation placed on it by the assessor.

The Provider acknowledges that errors were made and that its customer service in dealing with the Complainant was unprofessional. It states that it offered the Complainant a sum of €400 in compensation.

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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 9 July 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.

I will deal with the complaint under three headings; No Claims Bonus, Valuation of the Vehicle and Customer Service.

No claims bonus

It is clear from the telephone calls, and is acknowledged by the Provider, that from a very early stage it was agreed that no liability attached to the Complainant and therefore his NCB would be unaffected. In fact from the very first 'phone call when the Complainant was reporting the incident on 7 September 2016 at 9.47 a.m. the Complainant was persistent in asking if this would affect his NCB. The Agent (M.L.) that he spoke to was very clear and categoric in assuring him that it "*wouldn't affect your no claims bonus – you are not at a loss*".

This was repeated a number of times throughout the telephone conversation. The Complainant was left with no doubt that the incident would not affect his NCB due to the assurances given to him by the Agent.

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Despite this being logged on the Provider's system, the renewal notice for the commercial vehicle insurance policy dropped the NCB to 2 years and sought a far higher premium for his new vehicle as a result.

On 29 September 2016 the Complainant had a follow-up conversation with the same Agent (M.L.) While the main focus of this conversation related to the value of the Complainant's car, the Complainant also asked *"can you send me a letter saying it will not affect my No Claims Bonus?"*

The Agent told him that this was not possible. He informed the Complainant of the process that he (the Agent) would go through in closing the file on the accident.

The Complainant then asked what proof he would have that his NCB would not be affected. The Agent replied *"the proof of it is the conversation we are having"*. When pressed, the Agent said *"this call is being recorded"*. The Complainant pressed further, *"could you not just send me a letter?"* The Agent responded *"I don't generate those letters... if it becomes an issue I'm more than happy to rectify that"*.

However, the reality of what happened is quite different. When the Complainant's renewal data came the Company had in fact reduced the Complainant's NCB to 2 years resulting in a significant increase in the premium sought from €600 to €2,600.

He contacted the same Agent (M.L.) who firstly and repeatedly told the Complainant that *"I don't deal with renewals"*. He then went on to explain to the Complainant that the claim was still open and would remain so until the court case involving the prosecution of the other driver was cancelled. The Agent ignored the Complainant's assertions that this was the complete opposite to what he (M.L.) had informed him previously and did not accord with what the Provider had notified to the MIBI. This information had been relayed to the Complainant by the MIBI.

The Complainant was correct in his assertion that what M.L. was telling him on this call was in direct conflict with what M.L. had told him on previous calls.

The call finished with the Agent repeating *"I don't deal with renewals... I don't deal with your No Claims Bonus"*. He then referred him to another section of the Provider.

What followed was an appalling level of customer service when the Complainant made numerous calls and was put through, following waiting period, to various people and sections within the Provider to try to get his NCB corrected. He received various responses such as:

"This is a matter for the broker team. I can't deal with broker problems".

"You'll have to contact the broker".

"Once you take it out [the Insurance Policy] through the broker you have to go back to them".

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As he asked to speak to the various people he had previously spoken to he was told *“these are all names that don’t mean a thing to me”*.

Having been put through to the various Agents and Departments he eventually spoke to an Agent who informed him that his NCB had been reinstated to 6 years. He was informed that the Provider would only issue one NCB and as his had already issued, notwithstanding that it was incorrect, another NCB could not be issued. He did however, inform the Complainant *“that as soon as you let the broker know that you want to lapse we will send a new one – it only goes out once”*.

The Complainant’s response was to state that he felt that by doing this, the Provider was denying him the right to seek insurance from other companies. He stated *“I shouldn’t have to go around begging for my No Claims Bonus”*. The Agent responded *“I’ll get it rectified here for you”*.

The conduct of the Provider in relation to this matter meant that the Complainant did not have the correct NCB statement in order to shop around for alternative insurance. Only after a number of phone calls did the Provider agree to send a correct statement of NCB to the Complainant’s broker.

Further, the Complainant maintains that this affected the premium on renewal of his private car insurance, causing an increase of €400. While he has not submitted any documentary evidence supporting this element of his claim, equally the Provider has not dealt with this matter in its responses. I have no reason to doubt the Complainant’s assertion in this regard.

Having the correct NCB Certificate in advance of renewing an insurance policy is critically important.

I am most concerned with the manner in which the Complainant’s NCB was dealt with. In the first instance, it should not have been reduced from 6 to 2 years. When the Complainant pointed out, with great difficulty, that this error had been made, he then had to go to great lengths to have the matter corrected and a correct NCB Certificate issued. Because of the serious implications of this, I uphold this aspect of the complaint and will bring the matter to the attention of the Central Bank of Ireland for them to take any action they deem necessary.

Valuation

The Complainant maintains that the assessor agreed with him a price for the vehicle on the basis that the Complainant would get to keep the vehicle for parts. The Provider denies this. It says that it could not legally release the vehicle to the Complainant and that the assessor was only engaged to put a value on the vehicle and that is what he did.

The report from the assessor, as provided by the Provider, makes clear that the assessor regarded the *“pre accident value”* of the vehicle as being €2,200. The report further states: *“This valuation has been discussed with the policy holder”*. It goes on to assess a *“salvage value”* of approx. €200. While there is no mention of the purported agreement or that the

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valuation was given on the basis that the Complainant would be able to keep the vehicle, I have no reason to doubt the Complainant's version of events.

I have come to this conclusion because the evidence provided throughout this complaint, particularly the telephone recordings, supports the Complainant's version of events.

Further I note that in the telephone conversation of 7 September 2016 when the Complainant reported the accident the Agent (M.L.) informed the Complainant that *"if the vehicle is written off we give you the market value – you can keep the vehicle if you want"*. This is the same Agent who informed him that this was not possible just some weeks later on 20 September when he said *"I'm categorically telling you that you cannot keep the vehicle"*. *"It's always been the case that Category B cannot be left with you"*.

I accept that the latter information may have been correct and that the vehicle could not be left with the Complainant.

However, taking into account all the conflicting information that the Complainant was given and on the balance of probabilities, I accept that the assessor did tell the Complainant that it would or could be possible to keep the vehicle.

For this reason I uphold this aspect of the complaint.

Customer Service

The Provider has acknowledged that the handling of these matters that are the subject of this complaint fell below the required standard.

Having listened to the calls between the Complainant and the Provider, I believe the quality of service and information provided to the Complainant fell far short of what a consumer is entitled to expect from a regulated financial service Provider.

This poor level of service had serious consequences for the Complainant and caused annoyance, frustration and distress.

For this reason I uphold this aspect of the complaint.

For the reasons set out above, I uphold this complaint and direct that the Provider pay a sum of €3,000 in compensation 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 upheld on the grounds prescribed in **Section 60(2) (b) and (g)**.

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 €3,000, 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**

31 July 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*.