



<u>Decision Ref:</u>	2019-0164
<u>Sector:</u>	Insurance
<u>Product / Service:</u>	Car
<u>Conduct(s) complained of:</u>	Dissatisfaction with customer service Failure to provide product/service information
<u>Outcome:</u>	Rejected

**LEGALLY BINDING DECISION
OF THE FINANCIAL SERVICES AND PENSIONS OMBUDSMAN**

Background

The Complainant sought to obtain motor insurance via the Provider, a Broker in **August 2017**.

The Complainant's Case

The Complainant sets out his complaint, as follows:

*"I wish to explain that I never completed purchasing insurance from [the Provider] (I never paid any money. I went through their sales process and am dissatisfied with the sales process and the service provided... On or around **21/08/2017**, I telephoned [the Provider] to obtain a quotation for car insurance. [The Agent] from [the Provider] replied to me via email on 21/08/2017. The email contained many inaccuracies and even asked for information relating to persons entirely unconnected to me ... I had explained during the initial phone call that: I didn't have a no claims bonus; the insurance was just for me; I didn't have a DOE; I didn't have a 'VLC' etc. Yet [the Agent] still came back to me asking for these things and even asked for information about "X Jnr" – someone I have never heard of. This is improper behaviour.*

On 23/08/2017 I decided to proceed with the quote and [the Agent] issued documents to me, via post. Again, these documents were discrepant to the information that I had provided ... If you refer to the Statement of Fact...then you can see that I had to correct multiple errors including the car's value, mileage, months owned, price paid, my residency in Ireland etc. I had given all this information and am unhappy that the documents issued to me were so full of errors. Due to [the Provider's] inaccurate documentation the insurance was not finalised in a timely manner.

On 27/08/2017 I had a major issue whereby the Garda detained my car on suspicion of driving without insurance (although I maintained and still maintain that it was covered by my UK insurance at the time). I am annoyed and perplexed that [the Provider] set the start date of their insurance as 28/08/2018. Because they set the start date future to when I had specified and made so many documentation errors, this led to me not having valid Irish insurance on the 27/08/2019 [when my vehicle was impounded]. I paid dues for my car being taken to a police compound and may face court, with the possibility of losing my licence – due in large part to [the Provider] ...

I tried to get the insurance up and running with [the Provider]...on 28/08/2017. At this time, I was down [in] [location] Garda Station, having a particularly unpleasant, several hour, exchange with one of the officers there, in an attempt to get my car released from their policy compound. I repeatedly called [the Provider] throughout the day to finalise the car insurance that was required to get my car released from its new compound home. They repeatedly said that they'd call me back, usually "in 5 minutes" but never did until 16:45, by which time it was useless to me, as the compound had closed and I had been forced to take out other and more expensive insurance ...

Referring to [the telephone call with the Provider on 28 August 2017], you can hear [the Agent] advising me that my UK insurance still applies and to tell the Garda "...I'm not living here..." as "...They're not to know". I don't think that it is appropriate she should advise on such matters. This could be construed as inciting me to lie to the police ...

In conclusion, I am complaining about: [the Provider's] documentation errors; [it] not completing my insurance application in a timely manner; [its] choice of start date of the policy; [its] horrendous customer service and not contacting me back when promised; inappropriate and potentially illegal advice given by [its Agent]; [its] lack of recordings of the sales process; etc."

As a result, the Complainant seeks for the Provider "to be fined and preferably not be allowed to sell insurance anymore. I want culpable staff removed. I would not say "no" to some financial compensation, mainly to compensate for the inconvenience and inordinate amount of time spent chasing this up".

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The Provider's Case

Provider records indicate that the Complainant telephoned the Provider on Monday 21 August 2017 to obtain motor insurance quotes. The Agent, having taken details from the Complainant, obtained one comprehensive quote from a named insurer for a premium of €2,050. The Agent emailed the Complainant later that day setting out the documentation required in order to incept cover and advised, *"In order to proceed, please note the following is required"*.

In the list of documentation required, it was noted that the Provider needed, *inter alia*, a *"Checked, signed and dated Statement of Fact (as attached)"*. As a result, the Provider is satisfied that the Complainant was made aware of what he needed to do in order for it to submit for cover on his behalf. The attached Statement of Fact was populated by the Agent with the information she had noted from the Complainant by telephone earlier that day.

The Complainant emailed the Agent later that day to advise that there were some discrepancies contained in her earlier email and the attached Statement of Fact. In this regard, the Provider notes that there is a mention of a *"X Jnr."* in the email. This was an inputting error. The Provider also notes that the Complainant advised that the attached Statement of Fact contained *"multiple errors"*. The Agent based its documentation on the information she obtained during the telephone call with the Complainant. In this regard, the Provider notes that it is often the case that information provided over the telephone does not reflect what a customer later sees on the Statement of Fact and it is for this reason that the customer is issued with the Statement of Fact, so that they can then amend any information that they are dissatisfied with. The Agent sent the Complainant an amended Statement of Fact on Wednesday 23 August 2017, to be checked, signed, dated and returned.

In addition, the Provider notes that in its email dated 21 August 2017 it had requested from the Complainant a copy of the vehicle licensing certificate, a standard document confirming his ownership of the vehicle. The Complainant explained in his email response later that day that he could not obtain this until his vehicle was insured in Ireland. The Agent acknowledged this by email on 23 August 2017 and advised that it could give him 30 days to get the vehicle licensing certificate, once it had all of his other documentation. The Complainant also advised in his email that he did not have a no claims bonus to which the Agent advised in her email reply that this had already been taken account of in the quote provided.

The Provider notes that the Statement of Fact it sent to the Complainant on 21 August 2017 advised, *inter alia*, **"Effective Date 22 August 2017"**. The amended Statement of Fact it sent to the Complainant on 23 August 2017 advised, *inter alia*, **"Effective Date 28 August 2017"**.

The Provider notes that in order to print off a Statement of Fact from an insurers system, an effective date of cover needs to be inputted. This date can be changed by the insurer upon receipt of the documentation required and the premium. In this regard, the Provider submits that the effective date on the Statement of Fact is an indication of cover date but that the actual date of cover would be the date shown on the policy schedule, if the policy is later effected.

The Provider is satisfied that the Complainant was advised in writing what it needed to help him obtain cover but he never returned the documentation required or paid the premium, and the Provider never confirmed cover to him. The Complainant drove his vehicle uninsured on 27 August 2017 and was stopped by **An Garda Síochána**. The fact that the Complainant chose to drive uninsured was his own decision. **In both his telephone call and his email on Monday 28 August 2017**, the Complainant acknowledged that he had not yet returned the required documentation and asked the Provider to backdate cover on his behalf, which the Provider notes is illegal and immoral and something it would never do. The Complainant advised the Agent by telephone on 28 August 2017 that he still had insurance cover on his vehicle in the UK and she advised him to produce proof of that insurance to the Gardaí.

In conclusion, the Complainant contacted the Provider to obtain a motor insurance quote and the Provider is satisfied that its staff did all they could to assist him and make him aware of the precise documentation he needed to obtain, in order to apply for cover. The Provider is satisfied that its staff responded to the Complainant in a timely manner and were always courteous to him, as evidencing in the recording of the relevant telephone calls.

The Complaint for Adjudication

The Complainant's complaint is that the Provider provided him with a very poor level of service throughout his application for motor insurance.

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 28 May 2019, 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.

The complaint at hand is that the Provider provided the Complainant with a very poor level of service throughout his application for motor insurance. In this regard, the Complainant sought to obtain motor insurance via the Provider, a Broker in August 2017.

The Complainant first telephoned the Provider on 21 August 2017 to obtain a quote for motor insurance. I note from the recording of this telephone call that the Complainant advised the Agent that he was:

“trying to get a quote for my car insurance, I’m having a bit of difficulty with lots of people cause I had that minor claim for a break into my car within the year”.

I note that the Agent inputted details obtained from the Complainant, into the insurers system and obtained a fully comprehensive quote in the amount of €2,050. The Complainant then stated that *“that could well be better than nothing. Could you possibly email me the details so I can have a little look and see if I can get it elsewhere and if not...thank you”.*

Having listened to the entire recording of this telephone call, I am satisfied that the Agent was courteous and helpful throughout.

Following this telephone call, I note from the documentary evidence before me that the Agent then emailed the Complainant at 3.05 pm on 21 August 2017, as follows:

“With reference to my telephone conversation please note we have sourced a Comprehensive Quotation with [named Insurer] for a premium of €2,050.00. Cover includes Windscreen cover however, no breakdown. If you require same we sell it here in the office for €35 ...

In order to proceed please note the following is required:

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- *Checked, signed and dated Statement of Facts (attached)*
- *Signed and dated Letter of Suitability (attached)*
- *Copy of yours and X's Jnr licence (front & back)*
- *Copy of Log Book (VLC)*
- *Copy of DOE (disc or cert)*
- *Original signed and dated Statement of No Claims Bonus (5yrs plus)".*

The Complainant then emailed the Agent later that day at 8.15 pm on 21 August 2017, as follows:

"Thanks for your email I may well go with the quote. There do seem to be some discrepancies in the information you have requested.

I don't have a no claims bonus (this being why I approached you); the insurance is just for me, I don't know anyone called X; I don't have a DOE – I think this applies to commercial vehicles only (?); I do have a log book but it is a standard Nissan log book and not a "VLC" (it would require a lot of scanning to provide a full copy of the, many paged, log book).

Could you please double check the list of information that I'll need to provide, as it looks like there may be some mistakes. Please bear in mind that the car is imported and that, although, I have an Irish plate and VRT, it does not yet have the NCT test – as they require Irish insurance before they allow one to book it. I have a valid MOT from the UK and have maintained my UK insurance – as I thought it might help with sorting matters here".

I note that the Agent then emailed the Complainant at 11.46 am on 23 August 2017, as follows:

"I have based the quotation on a nil bonus so the quote still stands. All we allow the vehicle on the MOT only for 30 days. You then need to get the NCT within 30 days. Apologies for X as I am unsure where I inputted the name.

Should you wish to proceed please revert as I will need to send out paperwork to you"

The Complainant responded by email at 1.14 pm on 23 August 2017, as follows:

"I wish to proceed. Please send me the paperwork and outline required proofs that I may need to provide"

In this regard, the Agent emailed the Complainant at 1.49 pm on Wednesday 23 August 2017, as follows:

"I have issued the paperwork today and also outlined what it needed".

I note that the Complainant was driving his vehicle on Sunday 27 August 2017 and was stopped by **An Garda Síochána, who then impounded the vehicle.**

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I have listened to a recording of the telephone call between the Complainant and the Provider on Monday 28 August 2017 and note the following exchange, as follows:

Complainant: *I had a bit of an issue yesterday with my car and it got impounded -*

Agent: *Oh, ok*

Complainant: *There's, em, I couldn't prove I had insurance, em, I believe the insurance down on my application with you starts today, its effective from today, em, is it possible we could -*

Agent: *Yeah, the 28th, now, I can't backdate or anything but I can put you on cover now. Now, the thing is you have my paperwork, do you?*

Complainant: *I have your paperwork and I'm about to return it... the thing is you couldn't do it like from yesterday or something because I -*

Agent: *No. No. Our system doesn't allow us backdate at all, you see, we're not allowed at all -*

Complainant: *because otherwise I'm going to, probably, like, em, be disqualified from driving in Ireland and I did kinda apply like, well, before the 23 August -*

Agent: *God, yeah. No. I just can't do it. It's just the system. The system doesn't allow you backdate for like by ten minutes... so no, we won't be able to backdate by a day, you know*

Complainant: *Is there anyway like you can just escalate it -*

Agent: *No, unfortunately not. You're not the first person to try and get it done. It's just impossible. You can't do it, you know. No insurance company allows backdating ...*

I don't know what you're going to do. When did your policy expire over in England?

Complainant: *Em, I still got it running, but it doesn't cover me, I don't think, for more than 28 days abroad*

Agent: *It does. No, it does, yeah, third party cover still applies, e -*

Complainant: *Does it?*

Agent: *It should do. So what you need to do is you need to ring your insurance company over in England and just tell them, look, you've been in*

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Ireland, back and from England all the time or whatever, and just say that I've been stopped for no insurance, em, they should be able to email you through your schedule and stuff like that, you know...

Complainant: *Just say I've been back and forth between the two countries*

Agent: *Yeah, yeah – and once you can show to the Guards that you actually have cover in England there, they're not going to do you for it, you know because you've proved to them that you have insurance”.*

I note that the Complainant then advised that he was going to send over the documentation later that day to proceed with the motor insurance application and when he mentioned that he wanted to change some information on the Statement of Fact, the Agent advised him to cross out the incorrect information and insert the correct information, initial it and send it over and insurance cover could then be arranged to commence on that day, once payment was received. Having listened to the entire recording of this telephone call, I am satisfied that the Agent was courteous and helpful throughout and that the Complainant thanked her.

Following this telephone call, I note that the Complainant then emailed the Provider at 9:11 am on Monday 28 August 2017, as follows:

“I have tried to complete the insurance application documents that you sent me.

Could we please finalise the insurance and issue me with an insurance certificate today? I will email you the documents I have completed, to assist with this. I will also send them via post, as requested.

As discussed, I need to prove that I had insurance effective from before 27/08/2017. I appreciate that you said it was not possible to change the effective date, however, it would really help me to change the effective date to 25/08/2017 – maybe this could be possible, as the application was commenced on or before 23/08/2017?

My comments on the documents:

I don't have a “VLC”. I have provided a copy of the relevant service history pages of my Fiat logbook. I have provided a copy of my UK registration form, V5C. I cannot get an Irish, VRT certificate, until the car is insured here (as it is generated when one first taxes the car in the Ireland, and I cannot tax the car without first having Irish insurance).

I have sent a document showing that I didn't have a no claims bonus when I cancelled a previous policy. As this previous cancellation took place within the last year, then a whole year's no claims bonus could not have had a chance to build.

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There were inaccuracies on the "Statement of Fact". I have been resident in Ireland sine 07/06/2017. I have owned the car since 13/06/2015. The value of the car when purchased was £2,199.00. At todays exchange rate that translates to 2,375.49 euros. I have amended the document accordingly. I have provided a copy of the car sales invoice in support of these. The other information on the Statement of Fact is correct.

Please let me know asap if you require any other documentation or if I can be of further assistance.

Please help me complete this today".

The Complainant next emailed the Provider on 4.50 pm on Sunday 3 September 2017, as follows:

"I do not appear to have received a response to my (below) email [dated 28 August 2017 at 9:11 am]. Is it still possible to proceed to obtain insurance with you? I am afraid that when I was trying to sort the matter out on 28th August I may have missed a phone call from you at about 16:45 pm. I am sorry, if I missed a call. However I had asked for an urgent response to sorting out my insurance with you and, by that late time in the day, was forced to look elsewhere for insurance. Unfortunately, what with my car languishing in a police compound (as explained to you), the lack of prompt response effectively meant that I had to take even more expensive insurance (2800 euros) with another company that was able to immediately send out a Certificate of Insurance, which I could use to get my car released. I had contacted your company at several times throughout the day and couldn't afford to wait any longer for the elusive response that was promised.

Even so, with 14 day cancellation periods, it may still be sensible to proceed with your company. Please provide a response to my (below) email [dated 28 August 2017 at 9:11 am]. Please let me know what is going on. Please tell me if you need anything further to the information I have already sent in order to proceed.

I wish to officially complain about:

- 1. The errors in documentation sent out to me by your company.*
- 2. Lack of prompt responses/responses from your company.*
- 3. The sending out of documentation specifying an insurance start date of 28/08/2017 – which I don't recall asking for and which may now have serious legal ramifications for me.*
- 4. Clearly copying and pasting an incorrect request for documentation in communications to me (even requesting me to send details of "X Jnr's..." – whom I have no connection with).*
- 5. The repeating of the erroneous request for information via latter, even after I had pointed out the original errors".*

In this regard, I note that the Provider responded to the Complainant by email at 10.49 am on Tuesday 5 September 2017, as follows:

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“Thank you for your mail dated the 3/9/2017. You have noted in your subject line that it is a complaint, but reviewing the file I cannot see what the complaint is based on.

[The Agent] issued you a quotation letter on the 23rd of August noting a quotation and the items she would need from you to proceed with the policy. It is your responsibility to gather these items (and correct any incorrect information on the forms) and return to us. Once a premium is paid, and we have these items, the items are reviewed for accuracy and then submitted to the insurer. If the insurer is happy with the information then they may at that stage confirm cover. Neither we nor the insurer ever received the list of documents or any premium as requested and neither we nor your insurer confirmed cover to you. Talk of issues around missed calls are incidental in this case, as if [the Agent] was talking to you, [she] would in no way have been in a position to confirm cover to you.

You mention about going on cover at this stage through [the Provider], however you also mention your vehicle was impounded. This is an additional material fact that any insurer will need to review, so as well as the list of documentation requested from [the Agent], you will also need to provide us with a court letter or a letter from your solicitor, outlining if you’re currently being investigated for driving without insurance or if not, outlining the reason your vehicle was impounded. We will require the originals of all documentation before being in a position to review same. You mention that you already have cover on this vehicle with another insurer, if that is the case than you might be best served to stay with that insurer”.

I am satisfied from the documentary evidence before me and having listened to the recording of the relevant telephone calls between the Complainant and the Provider, that the Agent had made it clear to the Complainant the precise information which was required from him in order for the Provider to submit for motor insurance cover on his behalf. In this regard, I note that the Complainant himself states during his telephone call with the Provider on 28 August 2017 and in his email to the Provider later that same day, that he had not yet returned this documentation to the Provider and that he intended to do so presently. In addition, the Complainant also requested during this telephone call and by email that the Provider backdate his yet to be applied for motor insurance cover to before 27 August 2017, that is, prior to the date when **An Garda Síochána** impounded his vehicle.

As a result, I am satisfied that regardless of whatever other motor insurance cover he may have held at that time in the UK, the Complainant was clearly aware or ought to have been aware, on 27 August 2017 that he had not yet incepted motor insurance cover in Ireland via the Provider, as he had neither returned the documentation required to do so or paid the associated premium. In this regard, the onus rests solely on the individual to ensure that he or she is insured to drive any vehicle that he or she intends to drive or is driving at any particular time. I am satisfied that the Provider made it clear to the Complainant in this instance that his application for motor insurance was dependant on him furnishing certain documentation to the Provider, including signing, dating and returning the Statement of Fact, and that he could correct and initial any amendments to that document if required. The Complainant did not do this prior to 27 August 2017, that is, the date when **An Garda**

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Síochána impounded his vehicle and I do not accept that the Provider can in any way be held responsible for his failure to do so.

As the evidence before me discloses no wrongdoing on the part of the Provider, it is my Decision therefore, that this complaint cannot be upheld.

Conclusion

My Decision pursuant to **Section 60(1)** of the **Financial Services and Pensions Ombudsman Act 2017**, is that this complaint is rejected.

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**

20 June 2019

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.