



<u>Decision Ref:</u>	2019-0356
<u>Sector:</u>	Insurance
<u>Product / Service:</u>	Car
<u>Conduct(s) complained of:</u>	Complaint handling (Consumer Protection Code) Dissatisfaction with customer service Failure to process instructions
<u>Outcome:</u>	Substantially upheld

LEGALLY BINDING DECISION OF THE FINANCIAL SERVICES AND PENSIONS OMBUDSMAN

Background

This complaint concerns a motor insurance policy, purchased from the Provider (a broker) by the Complainant, and the Complainant's wish to have the policy transferred to a different vehicle. The complaint is that the Provider:

- Did not act on the Complainant's request to transfer his motor insurance policy to a new vehicle;
- Subsequently did not act on the Complainant's instruction to cancel the policy, and that, as a result, premiums continued to be charged to his bank account;
- Proffered below par communication, customer service and complaints handling throughout.

The Complainant's Case

The Complainant submits that he contacted the Provider via email on **8 July 2017**, to request that his motor insurance policy be transferred to a new vehicle and to make a complaint about a telephone call with the Provider that took place on **29 June 2017**. He further submits that the Provider did not respond to this email, and that he "*sent [a] few requests then complaints and nothing*". In his submissions, the Complainant contends that, as a result of the Provider not acting on his request, his new car was not insured and he was "*paying for the service [he was] unable to use because of [the Provider's] ignorance and incompetence*". The Complainant asserts that he was thus being charged for a service that was "*not provided*" and complained to the Provider on more than one occasion, to no avail, about the fact that his instruction had not been actioned.

In his initial email to the Provider, the Complainant also made a customer service complaint regarding a telephone call he made to the Provider on **29 June 2017**. The Complainant states that he asked the Provider to cancel his policy in **August 2017** as he had not been able to drive his new car due to the Provider not actioning his request to transfer his policy, and he therefore had "*no insurance*". The Complainant contends that the Provider did not act on his instruction to cancel the policy. The Complainant submits that he subsequently "*stopped the direct debit in the bank so there [would] be no more payments as [he] was being charged for the services [he could] not access*".

The Provider's Case

The Provider submits that the Complainant sent an email to its office email address on **8 July 2017** requesting to transfer his motor insurance policy to a different vehicle. The Provider further submits that that an automated reply issued to the Complainant advising that the Provider's office email address was not being monitored, that instructions for altering policies should not be left as they "*would not be actioned*", and giving the office's telephone number "*for assistance with any issue*". The Provider contends that it did not receive the email the Complainant says he sent dated **13 July 2017**, but that it did receive his email sent on **18 July 2017** which "*did not contain any reference to a policy number, Surname, date of birth or telephone number*". The Provider submits that it contacted the Complainant that day, requesting the above information, and that the Complainant replied later providing all of the requested information apart from his telephone number. The Provider contends that it emailed the Complainant on **19 July 2017**, asking him to either get in contact or provide his telephone number so that it could call him and "*get [his] situation sorted*". The Provider submits that it had received an "*out of service*" response for the mobile number it had on file for the Complainant and so was unable to contact him by telephone.

The Provider asserts that it did not receive a response from the Complainant until **24 July 2017**, when he emailed the Provider to advise that he had still not received any response to his request to transfer his insurance. The Provider states that it replied to the Complainant's email on **25 July 2017**, reiterating its request for his contact telephone number and advising that it had addressed his request in its previous email. The Provider further states that it emailed the Complainant again that evening requesting his correct contact number. The Provider submits that it did not, at any stage, receive a "*return to sender reply indicating [an] undelivered email*", and furnishes details of further emails sent and received between **2 August 2017** and **21 August 2017**, including one from the Complainant stating his wish to cancel his policy and a reply from the Provider advising the Complainant of the actions required to effect a cancellation.

The Provider states that the Complainant wrote to it on **18 September 2017** advising that he wished to cancel his policy but that he "*did not have the policy certificate and disc*". The Provider contends that it replied to this letter and reiterated the policy cancellation procedure as well as enclosing "*a declaration to be signed and returned confirming his insurance documents were lost and cannot be found so [it] could complete the policy cancellation*". The Provider states that the policy underwriter subsequently cancelled the

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Complainant's policy "due to non-payment of premiums", and that the Complainant's no-claims bonus was received and forwarded to the Complainant thereafter.

The Provider submits that the Complainant "simply did not engage" and that it had "three staff members involved in this case at various periods of time all making a concerted effort to [conclude] matters for [the Complainant]".

The Complaint for Adjudication

The complaint is that the Provider:

- Did not act on the Complainant's request to transfer his motor insurance policy to a new vehicle;
- Subsequently did not act on the Complainant's instruction to cancel the policy, and that, as a result, premiums continued to be charged to his bank account;
- Proffered below par communication, customer service and complaints handling throughout.
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The Complainant also alleged "theft" on the part of the Provider regarding the deduction of the policy premiums from his bank account. Such conduct of a criminal nature falls outside the jurisdiction of the FSPO and this was conveyed to the Complainant in a letter dated **12 April 2018**. The Complainant advised the FSPO via email on **18 April 2018** that he understood the position in this regard.

Evidence

Policy Document

Under the policy document's '**General Conditions: 1 Cancelling the policy**' the policy underwriter sets out the following:

"To cancel the policy, return your certificate of insurance and insurance disc with a written request to your Broker or your local [Underwriter] Broker branch."

Under the policy document's '**General Conditions: 4 Changes to your policy**' the policy underwriter sets out the following:

"You must tell your Broker (or us) immediately about any:

- *Change of car or any other vehicle you buy or take ownership of*
- *Convictions, prosecutions or any penalty points which apply to you or any other driver of your car*
- *Change in the driver's health, address or job*
- *Modifications or alterations to your vehicle including, but not limited to, air induction kits and filters, lower suspension, change to the exhaust, engine maintenance computers or adding of body parts*
- *Change in use or in the main user or*
- *Other important change. "*

Email from the Complainant to the Provider dated 8 July 2017

".... I would like to ask to change my policy to another vehicle [vehicle's registration number], and.... to complain about [the Provider's] secretary or customer care I spoke to on June 29th..... I [would] appreciate transfer of my insurance to my 'new' car".

Email from the Provider to the Complainant dated 8 July 2017

"I am out of the office until Tuesday 11th July. Please do not leave instructions to incept or alter any policies as my email is not being monitored in my absence".

Email from the Complainant to the Provider dated 13 July 2017

"I sent [an] insurance transfer request at the end of last week and a complaint and.... did not receive any [response]. I need a car for the weekend so I would appreciate if you could answer my previous email".

Email from the Complainant to the Provider dated 18 July 2017

"This is a third time and last I am writing to [the Provider]. I sent a complaint and insurance transfer request twice already and got no answer. As your action left me without a car and screw up my weekend if I [do not] get an answer to my email I am going to write to the financial ombudsman".

Email from the Provider to the Complainant dated 18 July 2017

A member of the Provider's staff replies to the above email and asks the Complainant for his surname, date of birth and contact number.

Email from the Complainant to the Provider dated 18 July 2017

The Complainant again requests that his insurance be transferred to the "new vehicle" and requests a response to his complaint. He also furnishes his full name, date of birth and insurance policy number.

Email from the Provider to the Complainant dated 19 July 2017

A member of the Provider's staff advises the Complainant that a manager is now looking after the matter. She states that this manager has emailed the Complainant, and also furnishes the Complainant with the manager's email address.

Email from the Provider to the Complainant dated 19 July 2017

The above mentioned manager emailed the Complainant, stating the following:

“Your situation has now been brought to my attention, bearing in mind that the emails that you sent were sent to an old email address for ourselves, all our correct contact details have been updated on our stationery which would have accompanied your renewal pack that was issued to you in April, you also had the option to call our office. Can you please send me your contact number so I can call you and get your situation sorted”.

Email from the Complainant to the Provider dated 24 July 2017

“... I did not receive any [response] to my complaints nor insurance policy transferred.... (your manager did not bother to answer my complaint). I would like to inform [you] I am sending my complaint to the financial ombudsman..... As your company did not transfer my insurance I paid for the service I could not use. I am without a car for two weeks now. Unable to spend [weekends] with my child.... Your customer care is a disgrace”.

Emails from the Provider to the Complainant dated 25 July 2017

The manager referred to in previous emails emailed the Complainant and stated the following:

*“I have now attached a copy of the email that I sent you on the 19th July, the day your situation was brought to my attention, to which I have received **no reply** from yourself. Furthermore, you previously sent us your number but there is a digit missing therefore I am unable to call you. I asked you to send me your contact number so I could call and go through your details and action any changes that you required.*

Can I point out again that at any time you had the option to contact our office by phone and address any changes or queries that you might have. As you can see I am trying to address your situation but without you replying to my email and not sending me your number so I can call you, there is little more that I can do until I hear from you”.

“Can you please reply to [my] email with your correct contact number so I can give you a call and go through your details”.

Email from the Complainant to the Provider dated 2 August 2017

“Since you did not bother to answer any of my emails (complaints) and did not transfer my policy to a new vehicle I would like to inform [you] I registered a complaint with the financial ombudsman..... where I will seek compensation for not being able to drive my car for a month (unable to see my son as a result) and a

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refund for services I paid for but was unable to use because of your company's ignorance and incompetence".

Email from the Provider dated 2 August 2017

"I am sorry you felt you needed to approach the route you did however our records clearly show we have tried in vain to get your contact telephone number and speak with you regarding your policy – [Manager] in our office attempted on 3 occasions to contact you by email – some of your earlier communication including the below does not contain any detail regarding your full name, address, date of birth, policy number etc so we can not and will not action any instruction until we can be sure we are speaking to the policyholder. Please address any queries to the undersigned immediately and as mentioned above we would welcome to hear from you where your query will be handled swiftly".

Email from the Complainant to the Provider dated 6 August 2017

"Not sure what to think of the only email I got from you as it is not addressed to myself... I would like to see copies of the emails [the Manager] supposedly sent to (client) myself as I never got any of them.... If I can I would suggest to check the spelling of the receivers email address as that could be a problem (using zero instead of an o could be a factor). Nevertheless I am still waiting for the insurance transfer, paid for the services I did not use and did not see the answer to my complaints starting with the customer care level of [the Provider's] secretary I spoke to over the phone, time frame for insurance transfer and replies to customer's complaints".

Email from the Complainant to the Provider dated 20 August 2017

"I am writing to inform [you] I am cancelling the policy bought through [the Provider]..... (two months after making the transfer request) I did not receive any reply to my complaints nor the insurance disc that would suggest my policy was [transferred]... As you did not bother to answer any of my emails I do not expect an answer to this one either".

Email from the Provider to the Complainant dated 21 August 2017

"Please be advised we have tried to make contact with you on a number of occasions..... We do not take instructions to alter clients policies by email unless it is clear that the instruction is coming from the policy holder..... If you wish to cancel your policy you will need to return the original certificate and disc as this is the only way the policy can be cancelled as the insurers require same back in their possession. In relation to your request to transfer your policy I revert back to our earlier communications with you which you failed to respond to – we will not alter a policy of cover without getting verbal instructions from the policy holder thus your emailed instructions would not have been actioned. Nonetheless I am disappointed

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you are cancelling your policy and please do feel free to contact either me or [Manager] at the below numbers if we can be of further assistance”.

Letter from the Complainant to the Provider dated 28 September 2017

“As I suspected emails [the Provider] sent to me (attached in your last email) were never received for [a] very simple reason. The person writing them typed an 02 instead [of] o2 as I suggested (check it again). As I mentioned in the correspondence you DID receive I no longer wish to be your customer, I feel offended by your ignorance and incompetence”.

Submission from the Provider dated 20 May 2019

“Our office hours are 9am to 5.30pm Monday to Friday and in this regard instructions received outside of office hours can not be attended to. We make it very clear that cover can not be back dated, thus should a client submit an instruction to change a policy for example on a Friday night at 10pm by email we will not be able to action this instruction until Monday morning at 9am – In many cases we may indeed need to refer the instruction to the insurers who also operate similar office hours to our own”.

“On the same vein we must identify that the instruction to alter cover is in fact being requested by the policyholder and not a third party who has no jurisdiction to alter a policy – to carry this instruction out properly it must be done in person or by telephone. [The Complainant] is aware of our office procedures which are not unique to our office rather industry standard. Our out of office telephone message also advises the caller not to leave instructions to alter a policy as these will not be attended to”.

This submission also contained a copy of a letter from the Provider to the Complainant dated **13 June 2016**. This letter accompanied the ‘Motor Policy Pack’ sent to the Complainant at that time and states:

*“... should you require any alterations to cover contact the office immediately for assistance – **cover cannot be backdated**”.*

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.

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A Preliminary Decision was issued to the parties **11 September 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, within the period permitted, the final determination of this office is set out below.

The Complainant makes three main arguments:

- The Provider did not act on his instruction to transfer his motor insurance policy;
- The Provider did not cancel his policy when requested;
- The Provider proffered poor communication, customer service and complaints handling throughout.

The Complainant's initial email to the Provider on Saturday **8 July 2017** stated his express wish to transfer his policy to a 'new' car and included the registration number for this vehicle. This email also contained a complaint about a telephone call with the Provider that the Complainant says took place on Thursday **29 June 2017**, with the Complainant submitting:

"I rang at 12:14 and after a short conversation which gave me no answer to my questions the person I spoke to puts me on hold in the middle of our conversation without any warning of doing so".

In response to his email, the Complainant received an automated 'out of office' email from the Provider, indicating that the Provider would return on **11 July 2017**, the following Tuesday, and advising that instructions regarding policy changes should not be left as they would not be actioned in the Provider's absence. This automated email also provided the Provider's office telephone number for assistance. The Complainant submits that he emailed the Provider again on **13 July and 18 July 2017**, having not had a reply to his earlier email. The Provider contends that it did not receive the former email, but replied to the latter on the day of receipt requesting the Complainant's surname, date of birth and contact phone number. I note that the Complainant's reply to the Provider, also sent on the same date, reiterates his request to transfer his motor insurance and includes the Complainant's full name, date of birth and his policy number.

At this point, a Provider manager (hereinafter referred to as the 'Manager') began to liaise with the Complainant and sent three emails to him between **19 July 2017 and 25 July 2017**. Each of these emails requested that the Complainant forward his telephone number so that the Provider could speak with him in order to process the policy transfer. However, it is evident from the submissions that none of these emails would have been received by the Complainant as the email address used for the Complainant by the Manager was incorrect. An 'o' (lower case o) has been replaced with a '0' (zero), meaning that the messages would not have been delivered to the Complainant's email address. I note the

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Provider's submission that its "records show no 'return or undelivered' message", however, this merely indicates that the messages were not "undelivered" - it does not demonstrate that they were delivered to the Complainant.

The Complainant emailed the Provider on **24 July 2017**, not having received the Manager's email on **19 July 2017**, conveying his dissatisfaction that his policy had still not been transferred and stating that he had not been able to drive his car for two weeks. He stressed the impact this was having on his life, stating that he had been unable to see his child at weekends during that time. I accept that the Manager sent a response to this email; however, as previously stated, the emails sent by the Manager on **25 July 2017** would also not have been received by the Complainant due to the incorrect email address used by the Provider. The Complainant emailed the Provider on **2 August 2017** to advise that he had contacted the Ombudsman regarding the matter. He reiterated that the Provider had still not transferred his policy and that the Complainant had not been able to see his son as a result. He also noted that the Provider had not addressed his complaints. The Provider, in its reply, stated that it had tried to contact the Complainant repeatedly without success.

The Complainant's initial inquiries regarding the transfer of his policy to a different vehicle would appear to have been made during his telephone call to the Provider on **29 June 2017**. The Provider acknowledged this in its formal response to this office dated **5 June 2018**, stating that the call in question was "dropped" and that it lost contact with the Complainant. I note from the submissions that the Complainant formally requested that his motor insurance be transferred to a different vehicle in several emails sent to the Provider during July 2017. The method by which the information may be conveyed to the broker was not set out in any documentation or correspondence provided to the Complainant prior to these requests being made, and a copy of the Provider's policy in this regard was not furnished to this office when requested. The Provider sent a number of emails to the Complainant in July, requesting his contact phone number, though, as previously stated, the Complainant did not receive three of these emails. I note from the evidence before me that the Provider's own views on how policy changes should be communicated are not consistent:

"some of your earlier communication including the below does not contain any detail regarding your full name, address, date of birth, policy number etc so we can not and will not action any instruction until we can be sure we are speaking to the policyholder";

"We do not take instructions to alter clients policies by email unless it is clear that the instruction is coming from the policy holder";

"On the same vein we must identify that the instruction to alter cover is in fact being requested by the policyholder and not a third party who has no jurisdiction to alter a policy – to carry this instruction out properly it must be done in person or by telephone".

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The Provider has also stated that:

"... instructions received outside of office hours can not be attended to..... cover can not be back dated , thus should a client submit an instruction to change a policy for example on a Friday night at 10pm by email we will not be able to action this instruction until Monday morning at 9am".

The Provider's automated message, issued to the Complainant on **8 July 2017**, reinforces this position:

"I am out of the office until Tuesday 11th July. Please do not leave instructions to incept or alter any policies as my email is not being monitored in my absence".

I can find no evidence to suggest that the Complainant expected his instruction to be actioned immediately, and, even if he did have that expectation, the Provider clearly advised that this would not be possible as the email address would not be monitored again until **11 July 2017**. I note that the automated email also contained the Provider's office telephone number; however, telephoning would have been of no benefit to the Complainant at a time when the office was likely closed (the automated email issued at 3.37pm on a Saturday).

I acknowledge that the Provider asked the Complainant for his surname, date of birth and contact number in its email to him dated **18 July 2017**, and that the Complainant responded furnishing his full name, date of birth and insurance policy number. The Complainant did not include his contact number in his email reply, and the matter was then passed to a Provider manager. Given the Provider's obligations under the Data Protection Acts, I accept that the Provider is required to satisfy itself that any policy transfer request is being made by the policy holder. While the Consumer Protection Code states that a regulated entity must ensure that all instructions from, or on behalf of, a consumer are processed properly and promptly, the regulated entity (in this case, the Provider) must its meet data protection obligations in ensuring that the instructions are coming from the policy holder. It is unfortunate, in the circumstances, that the Manager's three subsequent emails were sent to an incorrect email address and not received by the Complainant. However, I accept that the Provider did not receive all requested information from the Complainant via email and thus wished to speak to him in order to be certain that it was the policy holder who was making the transfer request.

The Complainant also contends that the Provider did not act on his instruction to cancel his policy, resulting in premiums continuing to be deducted from his account. The Complainant advised the Provider via email on **20 August 2017** that he wished to cancel his policy. The Provider's response email stated:

"If you wish to cancel your policy you will need to return the original certificate and disc as this is the only the way the policy can be cancelled as the insurers require same back in their possession".

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Under 'General Conditions: 1 Cancelling the policy', the policy document states:

"To cancel the policy, return your certificate or insurance and insurance disc with a written request to your Broker or your local [Underwriter] Broker branch."

I accept that the Provider clearly outlined to the Complainant in the above mentioned email the actions he would need to take in order to cancel his policy, and I note that the Complainant later wrote to the Provider on **18 September 2017** stating that he had neither the policy certificate nor the disc in his possession. The Provider's response to this letter enclosed a *"lost certificate and disc declaration that must be completed in full, signed where indicated and returned... in order to have [the] policy cancelled"*. In my view, the Provider met its obligations regarding the Complainant's request to cancel his policy by advising him of what was required (the return of the certificate and disc), and subsequently furnishing him with the required declaration which he would need to complete and return in order to account for the missing items.

The Complainant's submissions assert that the Provider proffered below-par communication, customer service and complaints handling throughout the period subject to this complaint. It is my view that the Complainant's interactions with the Provider were hampered by the Provider's communication, beginning with the telephone call on **29 June 2017** where the matter of the policy transfer request was first raised by the Complainant. Subsequently, the Complainant elected to communicate with the Provider via email, and requested that the Provider transfer his policy. I note the Provider's submission that the Complainant had used an *"old email address"* to contact the Provider, and that the correct contact details had been updated on the stationery that had accompanied the Complainant's renewal pack some months before. Since an automated message issued to the Complainant from the Provider email address he used, either the *"old email address"* had a forwarding facility or the Complainant used the correct email address. The automated message stated:

"I am out of the office until Tuesday 11th July. Please do not leave instructions to incept or alter any policies as my email is not being monitored in my absence".

I believe that a reasonable person would apprehend from the above that their email would not be received or acted upon until the date specified, but that the mailbox would be manned thereafter and their emails would then be received by the Provider.

The Provider states in its Final Response Letter that the Complainant had used the email address *"info@*****.ie"*, and the evidence before me shows that he used the same email address to contact the Provider on **18 July 2017**. I note that the Provider did reply to the latter email, and therefore it would appear that it was operational, which seems to contradict the Manager's statement in the email intended for the Complainant dated **19 July 2017**:

"Your situation has now been brought to my attention, bearing in mind that the emails you sent were sent to an old email address for ourselves, all correct contact

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details have been updated on our stationery which would have accompanied your renewal pack that was issued to you”.

I note too that this email address, according to the Provider’s website, is its current contact email. In any case, there is no evidence before me to suggest that the Provider did not receive the Complainant’s email dated **8 July 2017** and the Provider should have responded at the earliest opportunity from **11 July 2017**, given that this was stated as the date of return on the automated message issued to the Complainant.

The Provider submits that it tried to contact the Complainant a number of times via email, but that he did not engage with it to provide his telephone number. While I acknowledge that the Provider made several attempts to contact the Complainant, the Manager used an incorrect email address on three occasions, and so those emails were not received by the Complainant. Given the Complainant’s previous experiences with the Provider (the initial telephone call, his unanswered [from the Complainant’s perspective] emails and his unacknowledged complaint to the Provider), it is understandable that the Complainant’s confidence in the Provider might have waned by the time communication between the parties improved in early August 2017. The Complainant raised the matter of the incorrect email address with the Provider in his email dated **6 August 2017** and in his letter dated **18 September 2017** (identifying the exact error in the latter communication), however I can find no evidence in the submissions that the Provider acknowledged the error in its replies to the Complainant. The Complainant addressed this matter again in his submission dated **19 July 2018** which was shared with the Provider, and I note the Provider’s recent submission dated **17 May 2019** which stated:

“..... we were successful in contacting [the Complainant] by email and encouraged him to contact the office by telephone – he took it upon himself not to engage with us”.

The Provider’s continued refusal to acknowledge its error in using an incorrect email address for the Complainant on three occasions, leading to the Complainant’s perception that his emails were unanswered, is disappointing.

The Complainant’s initial email to the Provider on **8 July 2017**, in addition to requesting a transfer of his insurance policy, included a complaint regarding his treatment by the Provider during the telephone call of **29 June 2017**. From the documents before me, I can find no evidence that the Provider made any attempt to resolve this matter with the Complainant. I also note that the Provider did not furnish this office with a recording or transcript of this telephone call as part of its formal response, stating that there was *“none to provide”*. The Consumer Protection Codes state that a regulated entity must resolve complaints with consumers *“speedily, efficiently and fairly”*. In my view, the Provider has not met its obligations in this regard.

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Having examined the documentary evidence in full, I am satisfied that the Provider's actions constituted poor customer service, insofar as:

- The Provider did not respond to the Complainant's initial email requesting the transfer of his motor insurance policy or acknowledge the complaint raised therein;
- The Provider communicated inconsistent information to the Complainant regarding the procedure for transferring a policy;
- The Provider used an incorrect email address to contact the Complainant on three occasions, with the result that he did not receive the communications and, to date has not acknowledged its error in that regard;
- The Provider has not, to date, addressed the Complainant's complaint regarding the "dropped" phone call of **29 June 2017**.

I acknowledge that the Provider needed to be satisfied that it was the policy holder who was making the policy transfer request "*and not a third party who [had] no jurisdiction to alter a policy*", and that this necessitated speaking with the Complainant as the requested information had not been forthcoming. I also acknowledge that the Provider met its obligations pertaining to the cancellation of the Complainant's policy, and I accept that it made attempts to contact the Complainant during July 2017 to arrange the transfer of his policy (though these attempts were unsuccessful due to the incorrect email address used by the Manager). In my opinion, each party's perception that the other was reluctant to engage may have exacerbated the situation. However, given that the Complainant replied to each email he did receive from the Provider, I believe it is reasonable to surmise that he did wish to engage and I cannot agree with the Provider's submission that the Complainant is the "*author of his own misfortune*". Having regard to the particular circumstances of this complaint, in particular the failings that have been noted above, it is my Decision that the complaint is substantially upheld and I direct the Provider to make a compensatory payment of €400 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 substantially 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 €400, 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.

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

3 October 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.