



<u>Decision Ref:</u>	2019-0404
<u>Sector:</u>	Insurance
<u>Product / Service:</u>	Car
<u>Conduct(s) complained of:</u>	Refusal to insure - failure to renew policy
<u>Outcome:</u>	Rejected

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

Background

The Second Complainant held a motor insurance policy with the Provider from **23 February 2017**, which was due for renewal on **23 February 2018**. The First Complainant was listed as a named driver on this policy.

The Complainants' Case

The Complainants purchased a new vehicle in **January 2018** and made an additional payment of €27.35 to the Provider to continue cover for the remainder of the policy term. The Provider wrote to the Second Complainant requesting a copy of the vehicle registration certificate for the new vehicle before it would offer policy renewal terms. As it did not receive this from the Complainants, the Provider was not in a position to offer renewal terms and the Second Complainant's policy lapsed at 23:59 on 22 February 2018.

The First Complainant was involved in a road traffic incident on 12 March 2018 but when she telephoned the Provider to request a copy of the insurance disc as she had to produce this to the Gardaí, the Agent advised her that there was no motor insurance cover in place. The Complainants state that they were unaware of this as the Provider had not written out to advise them that the policy was lapsing or had lapsed and, in any event, they only received the logbook from the garage on 16 March 2018.

In this regard, the First Complainant sets out the Complainants' complaint, as follows:

"[We] purchased a new vehicle on 17th January 2018. I rang [the Provider] to switch over my car...which they did and I had to pay an extra €27 for the remainder of the policy. My policy was due for renewal on the 22nd February, so [the Provider] sent me a letter to say if I didn't produce me car logbook by the end of January they would not renew my policy. I have only received my car logbook on Friday 16th March 2018. When I rang my insurance company last Monday [12 March 2018] I was told they wouldn't renew my policy because of not getting my logbook. At that stage I didn't even receive my car logbook, I then asked the [Agent] whom I was speaking with could they set up a policy there and then and if she could take payment over the phone off me. Once again, the [Agent] refused to renew my policy because of me not producing my logbook, which I hadn't received till 16 March 2018.

A girl is claiming under my car insurance now. My car and her car was involved in a minor collision on Monday 12 March 2018, as I have only been informed that date I had no valid car insurance because [the Provider] would not renew my policy and declined to take payment off me on that date".

In addition, in her letter to the Provider dated 4 May 2018, the First Complainant submits, *inter alia*, as follows:

"[The Provider] were happy to take payment of €27.00 when we purchased the new car. Why did [the Provider] take payment without the logbook then? Why did they not ask for the logbook then? Therefore, I was driving around uninsured for three weeks with my kids in the car".

The Complainants seek for the Provider to reinstate the Second Complainant's motor insurance policy from the renewal date of 23 February 2018, until the date that they incepted new cover with a different Insurer.

The Provider's Case

Provider records indicate that the Second Complainant held a motor insurance policy with the Provider from 23 February 2017, which lapsed on 22 February 2018 as the Complainants failed to furnish it with documentation that it had previously requested in order for it to offer renewal terms. The First Complainant was a named driver on this policy.

The Provider wrote to the Second Complainant on 15 January 2018 to advise that it required the vehicle registration certificate for the insured vehicle and that if this was not received by 29 January 2018, then it would not be in a position to offer renewal terms and the policy would expire. The Provider is satisfied that this letter was very clear as to the consequences of the Second Complainant not furnishing the vehicle registration certificate by the required date, that is, that it could not offer renewal terms and the policy would expire. In addition, the letter also advised that the vehicle should not be driven without arranging alternative motor insurance and a copy of the Second Complainant's No Claims Bonus was furnished so

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as to allow the Complainants to shop around the market for an insurance quote from another insurer if they so wanted.

As it had not received any response to its request dated 15 January 2018, the Provider sent a reminder on 30 January 2018 asking the Second Complainant to give the matter his urgent attention and it enclosed a freepost envelope to enable him to conveniently reply with the required documentation. Regrettably, despite acknowledging that they received the correspondence, the Complainants failed to furnish the vehicle registration certificate and as they made no contact at any point prior to the expiry of the policy, to advise that there was a delay in receiving the logbook from the garage, the Provider was not aware that the Second Complainant intended to renew his insurance with it and consequently, the policy simply lapsed, as the Provider advised it would.

The first contact the Provider had from the Complainants, past the expiry of the policy at 23:59 on 22 February 2018, was following the First Complainant's involvement in a road traffic incident on 12 March 2018, when she telephoned later that day to request a copy of the insurance disc as she had to produce this to the Gardaí. Had the Complainants contacted the Provider prior to the expiry of the policy to advise of the delay in obtaining the logbook, it would have been in a position to recommend that they follow up with their garage urgently, as without the correct documentation, the Provider would not be able to renew the policy.

In addition, as the Complainants did not contact it prior to the expiry of the policy, the Provider is satisfied that it was reasonable for it to conclude that the Second Complainant did not wish to renew his policy with it and therefore no renewal terms were offered, in line with the provisions of the **Non-Life Insurance (Provision of Information) (Renewal of Policy Insurance) Regulations 2007**. In this regard, the Provider had given the Second Complainant appropriate, clear and unambiguous notice that it would not be in a position to offer renewal terms without receipt of the vehicle registration certificate and that the policy would expire at renewal date should it not receive same.

The Provider notes that the Complainants had carried out a change of vehicle on the policy on 5 January 2018. As the policy was already in force and running from 23 February 2017 until 22 February 2018, the transfer of insurance to a different vehicle could be effected as a midterm amendment. This midterm amendment was carried out by the Complainants online and an additional premium of €27.35 was charged to cover the risk for the remainder of the policy period. The Provider may request information from a customer at any time during a policy period, however it is not always necessary for each amendment that may take place. The Provider did not require any ownership documents at the midterm amendment and it granted cover under the policy in line with the Complainants' request.

A midterm amendment letter issued to the Second Complainant on 5 January 2018 noting that the change to the policy "*is effective from 15:20hrs on 05/01/2018 to 23:59hrs on the 22/02/2018*". Enclosed was a Certificate of Motor Insurance that noted the period of cover as "*15:20 on the 05/01/2018 to 23:59 on the 22/02/2018*". In addition, a Motor Insurance Disc to be fitted to the vehicle window was also attached and read "*Expiry date:*

22/02/2018". These documents all clearly indicated that the policy period expired on 22 February 2018.

On 15 January 2018, ten days after the midterm amendment, the Provider carried out a review of the risk and the terms to be applied for the next insurance period. This involved reviewing the vehicle that was to be insured for the year ahead. The policy that had been provided to the Second Complainant for the 2017/2018 policy period was a private motor policy, however when carrying out its checks for the renewal, the Provider noted that the vehicle that was substituted online on 5 January 2018 showed with the ownership being 'Other than Private'. This suggested to the Provider that the vehicle had not been registered for private use or was not registered to the Second Complainant in a private capacity. Whilst its correspondence to the Second Complainant dated 5 January 2018 referred to his policy as "*Private Motor*", the Provider notes that this is simply because that was the type of policy the Second Complainant held with the Provider, that is, a private motor insurance policy to cover social, domestic and pleasure purposes. The use of the term "*Private Motor*" is not, in that context, a statement regarding the categorisation of the vehicle covered under the policy.

In line with its underwriting acceptance criteria, motor vehicles intended to be insured under a private motor policy must be private cars built mainly for carrying passengers and taxed for private use only. Such vehicles must also be registered in the name of the policyholder or the spouse/partner. As the ownership was recorded as 'Other than Private', the Provider wrote to the Second Complainant on **15 January 2018** to request a copy of the vehicle registration certificate, which would provide it with the information it required to release renewal terms, if appropriate.

In this regard, the motor policy held by the Second Complainant was an annual contract and therefore, the Provider was not obliged to renew the policy automatically. Each year, the Provider reviews the risk presented under a policy and decides if it is acceptable to the Provider or not. If it is prepared to cover that risk, the Provider will offer renewal terms, which can then be accepted by the customer if they wish. On this occasion, the Provider required further information from the Second Complainant in order to review the risk in full, but this information was not provided. The Provider required the vehicle registration certificate to ensure that the policy offered at renewal would provide the Complainants with the protections they would require under the correct type of motor insurance policy.

On **13 March 2018**, the Claims Department received a telephone call from a motor repairer who was calling on behalf of a third party who had been involved in a road traffic incident with the First Complainant, to see if a claim had been reported to the Provider. Following that initial call, the Provider telephoned the First Complainant on 13 March 2018 to discuss the details of the incident with her. The Provider, having listened to a recording of this call, does not agree with the First Complainant's assertion that its Agent was rude and unhelpful during this call. The Provider does, however, acknowledge and regret that its Agent then failed to return a telephone call to the First Complainant as promised, and it therefore offered a customer service award of €50, an offer that remains open to the Complainants to accept.

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Whilst it acknowledges and sympathises with the Complainants for the difficult circumstances that they were dealing with at the time the Second Complainant's motor policy was due to be renewed, the Provider must stress that it simply was not aware of the Second Complainant's intention to renew his policy with the Provider or that he was experiencing a delay in obtaining the logbook from the garage. All the correspondence that the Provider sent to the Second Complainant, including the midterm amendment documents, clearly noted the expiry of his policy as 23:59 on 22 February 2018, however the vehicle was still driven until at least 12 March 2018, when the road traffic incident occurred.

The Provider notes that the Complainants seek for it to reinstate cover from 23 February 2018, until the date when they incepted new cover with a different Insurer. This is not acceptable to the Provider, considering that the First Complainant was involved in a road traffic incident on 12 March 2018 and if it were to reinstate the policy, the Provider would be obliged to provide an indemnity for this incident. In this regard, **Part VI** of the **Road Traffic Act 1961, 'Compulsory Insurance of Mechanically Propelled Vehicles'**, places an obligation on a person to be insured when using a vehicle in a public place. If it were to provide an indemnity for this incident, the Provider would consider it contrary to public policy and a direct contravention of the legal requirement to hold a policy of motor insurance. It was the responsibility of the Complainants to ensure that the vehicle was adequately insured before driving in a public place. In addition, the Provider understands that the Gardaí may have investigated this matter and it cannot be held accountable for any recourse that may come from that investigation.

In conclusion, whilst it recognises the seriousness of the situation the Complainants are now faced with, the Provider is satisfied that it provided the Second Complainant with appropriate, clear and unambiguous notice that it would not be in a position to offer renewal terms without receipt of the vehicle registration certificate and that the policy would expire at renewal date should it not receive same. As the Provider did not receive the vehicle registration certificate as requested nor, indeed did it have any contact from the Complainants prior to the expiry of the policy, it was not given any indication that the Second Complainant intended to renew his insurance with it and the motor insurance policy lapsed at 23:59 on 22 February 2018, as the Provider had advised that it would.

The Complaints for Adjudication

The Complainants' first complaint is that the Provider wrongfully failed to offer renewal terms for the Second Complainant's motor insurance policy, in advance of the policy expiring, without the Complainants first producing the vehicle registration certificate for the vehicle in question.

The Complainants' second complaint is that the Provider was rude and unhelpful to the First Complainant on the telephone.

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 Complainants were 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 23 October 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.

I note that the Second Complainant held a motor insurance policy with the Provider from 23 February 2017, which lapsed at 23:59 on 22 February 2018 as the Complainants had failed to furnish the Provider with the documentation that it had previously requested. The First Complainant was a named driver on this policy.

In this regard, the Complainants' first complaint is that the Provider wrongfully failed to offer renewal terms for the Second Complainant's motor insurance policy in advance of the policy expiring, without the Complainants first producing the vehicle registration certificate for the vehicle in question. The Complainants' second complaint is that the Provider was rude and unhelpful to the First Complainant on the telephone.

With regard to the first complaint, I note that the Complainants carried out a change of vehicle on the Second Complainant's policy online, on **5 January 2018**. As a result, the Provider wrote to the Second Complainant on 5 January 2018, as follows:

"We had made the following change to your policy, as you requested.

Midterm Amendment:

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This is effective from 15:20hrs on 05/01/2018 to 23:59hrs on the 22/02/2018.

This has resulted in an additional charge to your premium of €27.35”.

In addition, the enclosed Policy Schedule stated, as follows:

“Period of Cover From: 15:20 on 05/012018

Period of Cover To: 23:59 on 22/02/2018

Renewal Date: 23/02/2018”

I am satisfied that both of these documents clearly indicated that the Second Complainant’s policy only provided the Complainants with motor insurance cover up to 23:59 on 22 February 2018 and that the policy renewal date was 23 February 2018.

I note from the documentary evidence before me that following a routine review of the risk ahead of the policy renewal date, the Provider wrote to the Second Complainant on **15 January 2018**, as follows:

“Important: Policy Renewal Requirements

The above mentioned policy falls due for renewal on 23/02/2018.

*In order for us to provide renewal terms within the time scale imposed by the Non-Life Insurance (Provision of Information) (Renewal of Policy Insurance) Regulations 2007, we require the following information / documentation to be provided to us by **29/01/2018***

Copy of Vehicle Registration Certificate for vehicle on cover.

*We would appreciate if you would provide us with the required information in the time scale indicated, so that we may be in a position to offer renewal terms in compliance with the Regulations referred to above. **In the event that we do not receive the information required the policy will expire at renewal date.** It is imperative that the vehicle covered under the above policy is not driven after this date unless alternative cover has been arranged. To enable you to do this we have arranged for your current Statement of No Claims Bonus to be sent to you separately”.*

[Emphasis added]

In addition, the Provider also wrote to the Second Complainant on **15 January 2018**, as follows:

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“To Whom It May Concern

This is to confirm that [the Second Complainant] is entitled to a 50% No Claims Discount on vehicle registration number XXXXXXXXX, representing 5+ number of years claims free.

We wish to confirm that this policy is still in force and due for renewal on 23/02/2018”.

Having received no response, I note that the Provider sent a reminder to the Second Complainant on **30 January 2018**, as follows:

“We refer to our letter of 16/1/2018 and we do not appear to have had a reply to date.

Will you please give this your urgent attention and we enclose a free post envelope for your reply”.

Having received no reply to its letter dated 15 January 2018 or its reminder dated 30 January 2018 or, indeed, having had no further contact from the Complainants prior to the expiry of the policy term, the Second Complainant’s policy lapsed at 23:59 on 22 February 2018, as the Provider had advised that it would.

An insurer is entitled to request from a customer or potential customer any information that it considers relevant to the risk insured or to be insured. In this regard, I am satisfied that the Provider’s correspondence to the Second Complainant dated 15 January 2018 was clear as to what information it required, namely, the vehicle registration certificate for the vehicle on cover, and that it required this information by 29 January 2018 or the policy would expire on its renewal date. This correspondence further advised that the Provider was forwarding a current Statement of No Claims Bonus so that the Second Complainant could arrange alternative cover if he so wished. This was issued on 15 January 2018.

Given that the Provider’s correspondence of 15 January 2018 clearly stated *“In the event that we do not receive the information required the policy will expire at renewal date”*, it would have been prudent of the Complainants to have contacted the Provider to advise that there was a delay in obtaining the logbook from the garage at that time. In the absence of any such contact from the Complainants, I am satisfied that it was reasonable for the Provider to conclude that the Second Complainant did not want to renew his policy with the Provider.

I note that **section 5** of the ***Non-Life Insurance (Provision of Information) (Renewal of Policy Insurance) Regulations 2007*** provides, as follows:

- “5. (1) An insurer shall, not less than 15 working days prior to the date of expiry of a policy of insurance:*

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- (a) *where the insurer wishes to invite a renewal, issue to the client in writing a notification of renewal of the policy of insurance, or*
- (b) *issue to the client in writing a notification that it does not wish to invite a renewal, unless in the case of this sub-paragraph (b) the insurer has reason to believe that the client would not wish to renew the policy.*

As the Provider had advised the Second Complainant by letter dated 15 January 2018 that in order for it to offer renewal terms it required the vehicle registration certificate for the vehicle on cover by 29 January 2018 or the policy would expire on its renewal date, and as it also furnished the Second Complainant at that time with a current Statement of No Claims Bonus so that he could arrange alternative cover if he so wished, I am satisfied that in the absence of any contact from the Complainants prior to the expiry of the Second Complainant's policy at 23:59 on 22 February 2018, the Provider had just reason to conclude that the Second Complainant did not wish to renew his motor insurance policy, as provided for in the above-cited **Section 5(1)(b)** of the **Non-Life Insurance (Provision of Information) (Renewal of Policy Insurance) Regulations 2007**. In this regard, I am satisfied that there was no obligation on the Provider to send any further notification to the Second Complainant that his policy was due to lapse or had lapsed.

The Complainants note that in its correspondence to the Second Complainant dated 5 January 2018 in relation to the additional premium due for the midterm arrangement, the Provider refers to his policy as "*Private Motor*". In this regard, the Complainants question how the policy was still recorded on that date as "*Private Motor*" when the Provider has since advised that the vehicle that was substituted on 5 January 2018 showed the ownership being 'Other than Private', which is what the Provider advises prompted its request for the vehicle registration certificate. In this regard, by email to this Office dated 18 June 2019, the Complainants submit:

"[The Provider] never stated until my complaint was in that my car at the time was classed as other than private and the insurance documents that was sent back and even before renewal, there was no reason mentioned why the log book was been looked for because of my car been classed as other than private, it was just mentioned my log book was needed, should this of been stated to me as why they needed my log book?"

I accept the Provider's position that whilst its correspondence to the Second Complainant dated 5 January 2018 noted his policy as "*Private Motor*", this was because that was the type of policy the Second Complainant held with the Provider, that is, a private motor insurance policy to cover social, domestic and pleasure purposes, and that the use of the term "*Private Motor*" is not, in that context, a statement regarding the categorisation of the vehicle covered under the policy. In addition, and as I have stated above, an insurer is entitled to request from a customer or potential customer any information that it considers relevant to the risk insured or to be insured. In this regard, when the Provider requested the vehicle registration certificate from the Second Complainant in its correspondence dated 15 January 2018, it did not need to specify a reason for doing so. In any event, it would have

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been open to the Complainants to have telephoned the Provider at any time, to ascertain the reason this document was required.

With regard to the second element of the complaint at hand, that is, that the Provider was rude and unhelpful to the First Complainant on the telephone on 13 March 2018, I have listened to a recording of the telephone call that the Provider made to the First Complainant on 13 March 2018, as well as a recording of the telephone calls between the First Complainant and the Provider on 5 January, 12 March, 13 March and 17 April 2018 and I am satisfied that the Agents in question each dealt with the First Complainant in a professional manner and I do not consider that they were rude or unhelpful towards her.

I note, however, that in their email to this Office dated 18 June 2019, the Complainants submit, *inter alia*, as follows:

“On phone call three the man says he will be in touch and still to this date I haven’t received a phone call from [the Provider] regarding this call back, just what it says in the complaint reply about a goodwill gesture of giving my €50 because of no call back, which I did not take. I was completely left in the dark to fend for myself in this situation”.

Having listened to the recording of this telephone call that took place between the Provider and the First Complainant on 13 March 2018, I note the concluding exchanges, as follows:

Agent: *I can’t confirm that there is any cover in place at the moment*

Second Complainant: *Right -*

Agent: *Eh, simply because, look I don’t deal with this and that’s being completely honest with you -*

Second Complainant: *Yeah -*

Agent: *Hopefully there is cover in place and we will [indecipherable] allowances but again, I can’t confirm that at this time.*

Second Complainant: *Right, and when will I find out then, or what’s the story?*

Agent: *Once I find out I’ll let you know.*

Second Complainant: *Ok, that’s great*

The Provider acknowledges and regrets that it failed to return a call to the First Complainant as the Agent had so indicated at the end of this call on 13 March 2018; it has offered the Complainants a customer service award of €50.

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Having listened to a recording of the telephone calls before me, I note, however, that the Provider had clearly advised the First Complainant by telephone the day before, 12 March 2018, when she telephoned requesting a copy of the insurance disc as she had to produce this to the Gardaí, that the Second Complainant's policy had lapsed on 23 February 2018 and that the Complainants had no cover in place with the Provider since that date.

In addition, the First Complainant telephoned the Provider on 17 April 2018 seeking written confirmation that the Second Complainant's policy with the Provider was no longer active, as he had obtained "a work van" and a different insurer had requested such confirmation. I am satisfied that this indicates that at that time, despite the lack of the return telephone call that the Agent had previously indicated to the First Complainant on 13 March 2018, the Complainants were nevertheless aware that the Second Complainant's policy with the Provider had lapsed.

I note that the Complainants declined the Provider's offer of a customer service award in the amount of €50, however the Provider has advised that this offer remains open and as the suggested token for this limited failure on its part, is within the range of what might be considered reasonable (albeit the lower end of that scale) I consider it a matter for the Complainants to now advise the Provider directly if they wish to accept this offer. In that event, they should contact the Provider as soon as possible as the Provider cannot be expected to hold this offer open indefinitely.

Having considered the evidence before me, I take the view that there is no reasonable basis upon which it would be appropriate to uphold these complaints.

Conclusion

My Decision is that these complaints are rejected, pursuant to **Section 60(1)** 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**

19 November 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.