An tOmbudsman Seirbhísí Airgeadais agus Pinsean
Financial Services and Pensions Ombudsman

Decision Ref:	2020-0067
Sector:	Insurance
Product / Service:	Other
Conduct(s) complained of:	Failure to advise on key product/service features Delayed or inadequate communication Complaint handling (Consumer Protection Code) Dissatisfaction with customer service Failure to process instructions in a timely manner
Outcome:	Partially Upheld

LEGALLY BINDING DECISION OF THE FINANCIAL SERVICES AND PENSIONS OMBUDSMAN

Background

This complaint relates to a motor insurance policy that was taken out by the Complainant on his golf buggy in **February 2017** through the Provider, which is a Broker.

The Complainant's Case

The Complainant submits that he was advised by the Provider that he required insurance for his golf buggy at his golf club. He submits that he paid €160.00 for the insurance as he was advised by the Provider that it was required under EU/Irish law. The Complainant submits that a deal had been done with his golf club for the price of the premium to cover use/theft. The Complainant submits that he has since discovered that insurance is not mandatory as of yet.

The Complainant submits that on **15 February 2017** he received a certificate of insurance and a disc for display on his golf buggy under the Road Traffic Act 1961. He submits that the certificate did not show the details of the cover on the golf buggy.

The Complainant says that when he called the Provider, he was informed that he was only covered for third party. The Complainant says that he was told that there was no third party, fire and theft insurance and that if he wanted fully comprehensive insurance that the premium would be €260.

The Complainant says that he was given conflicting information by the Provider as to whether insurance cover was required and whether the golf buggy could be used on the public road under the Road Traffic Act. The Complainant submits that he could not assess the true positon with respect to his insurance as he was not given the terms and conditions of the policy.

The Complainant submits that he was misled and given conflicting information by the Provider. The Complainant submits that he is out of pocket €160 and was *"sold a policy without terms and conditions and changing terms on a weekly basis is very unfair."* He submits that there is a *"monopoly"* which is *"disturbing*", and that he has tried other insurance providers and was told that the Provider is the only provider which could sell him the product.

The Complainant submits that since his complaint to the Financial Services Ombudsman (now the Financial Services and Pensions Ombudsman) he has been in contact with the Insurer directly. He submits that in January 2018, the Insurer agreed to return the premium paid on the policy incepted in February 2017. The Complainant submits that the Provider had suspended all contact with him since May 2017 and therefore he had no option but to communicate with the Insurer directly.

The Complainant submits that there is a huge difference between the initial quoted cost and the final cost of the cover obtained from the Insurer.

The Provider's Case

The Provider submits that the Complainant is a member of a golf club which issued a notice to members stating that from 1 March 2017, golf buggies would no longer be allowed on the course without insurance. The Provider submits that the club had issued the notice on foot of legal advice.

The Provider submits that the Complainant contacted the Insurer directly to arrange cover and was advised that he would have to contact the Provider to receive a quote as the Provider dealt with the golf club's liability cover. The Provider submits that the information as to whether insurance is required on a golf buggy, did not come from the Provider but rather from the Complainant's golf club. The Provider submits that when it enquired about this type of cover from the insurer, it was told that *"all golf buggies require RTA cover to cover them on the golf course, but also while in the carpark or on the road"*.

The Provider submits that it gave the Complainant a quote, and issued an email confirming the quote, the Complainant called to the office and signed a proposal form and paid for the cover. The Provider then incepted the cover on the Complainant's behalf with the Insurer.

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The Provider submits that the dispute started when the Complainant had not received his documentation in full, after the policy was incepted. The Provider submits that it posted the annual certificate and disc while it was waiting on full documentation from the Insurer. The Provider submits that it chased the Insurer and once received, the full documentation was issued to the Complainant.

The Provider submits that the Complainant had been actively seeking advice from other Insurers which led to queries over the insurance rating structure *"which is outside of the [Provider's] control"* as they *"only have one market for this type of insurance and have no input into how an Insurer rates their premiums"*

The Provider submits that when the Complainant questioned the cover type and policy documents, it sent all these queries to the Insurer to answer, as it *"felt the questions were pointed at the Insurer's cover, policy terms and conditions."* The Provider submits that after referring issues to the Insurer, the Insurer agreed to increase the cover to comprehensive and not charge the Complainant the extra premium.

The Provider submits as follows;

> *"We feel that this matter was directed at the Golf Club for enforcing members to take out this insurance cover. We also feel the complaint was directed at [Insurer] as the insured's query was over the pricing and under what terms was the client under obligation to take out this cover. We act as a Broker on behalf of the client to the Insurers. We do not have any say in rulings in relation to the Road Traffic Act or its obligations and therefore feel that we advised correctly to the client in this case. We supplied the client with answers to all of his queries and feel we provided good customer service and advice to Mr* [C.] *in all aspects outside of the Insurance queries."*

The Provider submits that it had suggested to the Complainant, in an email on 02 May 2017 that it would be restricting its correspondence through the Financial Services and Pensions Ombudsman as the complaint had been made at that time. The Provider submits that it believed the relationship had "significantly deteriorated" to the extent that it was unable to resolve the complaint despite its *"best endeavours".*

The Provider submits that the Complainant subsequently negotiated a reduced rate with the Insurer of €75 for the buggy insurance cover and this was as a result of the commercial relationship which the Insurer had with the Golf Club. The Provider submits that the Complainant was also refunded the premium that had been paid in February 2017.

<u>The Complaint for Adjudication</u>

The complaint is that the Provider was guilty of maladministration, insofar as it:-

(a) gave the Complainant misleading and confusing information at the time that the policy was incepted in February 2017 with respect to the premium and the level of cover on the policy.

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(b) failed to furnish the Complainant with the terms and conditions of his policy in a timely manner or at all, following the inception of the policy in February 2017.
(c) gave the Complainant contradictory information with respect to the legal requirement for cover, and the application of the Road Traffic Act to the policy.

Decision

During the investigation of this complaint by this Office, the Provider was requested to supply its written response to the complaint and to supply all relevant documents and information. The Provider responded in writing to the complaint and supplied a number of items in evidence. The Complainant was given the opportunity to see the Provider's response and the evidence supplied by the Provider. A full exchange of documentation and evidence took place between the parties.

In arriving at my Legally Binding Decision I have carefully considered the evidence and submissions put forward by the parties to the complaint.

Having reviewed and considered the submissions made by the parties to this complaint, I am satisfied that the submissions and evidence furnished did not disclose a conflict of fact such as would require the holding of an Oral Hearing to resolve any such conflict. I am also satisfied that the submissions and evidence furnished were sufficient to enable a Legally Binding Decision to be made in this complaint without the necessity for holding an Oral Hearing.

A Preliminary Decision was issued to the parties on 15 January 20120, 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.

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

The evidence available suggests that the Complainant contacted the Provider by telephone in early February 2017 to obtain a quote via the Provider. The FSPO has not been supplied with a copy of the recording of this telephone call. It appears that following this call, the Provider issued the Complainant a Proposal Form by email on **10 February 2017**. The Provider also sent an email to the Complainant on **10 February 2017**, which contains details of cover offered by the Insurer. This appears to be a forwarded email, which had previously been sent by the Provider to the golf club on 23 January 2017, as it appears elsewhere in the evidence submitted, albeit with the email forward section removed. The content of the email outlines as follows;

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"Over the past few weeks and in particular following the VUNK ruling we have had a number of queries in relation to motor cover for both Golf Clubs and individual members who own their own Golf Buggy.

As you are aware [Named Insurer] are the new Insurer partner on the [Name] scheme from 1st June 2016 and they underwrite both the Combined and Motor policy. By having both with the same insurer it removes any grey areas around the cover.

Below is a summary of how we handle Motor Cover for both the Club and individual members under the new scheme with [Named Insurer] effective on all policies from 1st June 2016:

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Motor Policy for Buggy Owned by Members

- *A member who is currently covered under our [Name] PA scheme can take out a motor policy with us on [Name Scheme] for the following premium:*
  - *TPO = €150 + Levy*
  - *ADF&T = 5% of the value subject to minimum €50 + levy*
- *Policy is open driving – any person driving with the Insured's consent provided they hold the relevant licence.*
- *Policy is set up in the individual member name*
- *To arrange cover all we need is name and address of the member, details of their Golf Club and full details on the buggy including ID number and value which is all covered in the form (also if ADF&T cover is required)."*

I note from the content of this email that the options outlined were "TPO" which I understand to be "Third Party Only" and "ADF&T" which I understand to mean "Add Fire and Theft". I also note that there was no mention in that email of a comprehensive option.

The Complainant then completed the Proposal Form and signed and dated it **13 February 2017.** The Proposal Form completed offered two types of cover "*Third Party Only*" and "*Comprehensive*". The Complainant elected for Third Party Only. The Provider contacted the Insurer and the cover was incepted on that date. The Insurer issued the Annual Certificate and Insurance Disc to the Provider by email on 15 February 2017. The Provider then transmitted those documents to the Complainant. These documents were confirmed received by the Complainant on 17 February 2017. The Annual Certificate confirmed that the Insurance Cover was Third Party Only. The Complainant subsequently took issue with the insurance cover that was put in place, by email and in telephone calls with the Provider.

I must note at the outset that this complaint has been raised against the Provider, as broker, rather than against the Insurer. In this regard, it is understood that the Complainant made a complaint to Insurance Ireland, which was responded to by the Insurer. I am unaware of the outcome of that complaint but it does not impact on the investigation and adjudication of this complaint. The adjudication of this complaint examines only the suggested wrongful conduct of the Provider, as broker.

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The first issue raised by the Complainant relates to the level of premium that he was charged for the insurance policy on his golf buggy. He takes issue with the premium initially quoted and charged for Third Party Cover of €160, and he says that comprehensive cover was quoted for €260. He also takes issue with the fact that there was a *"huge difference"* between the initial quoted cost and the final cost of the cover obtained from the Insurer. The Complainant further submits that the cover is in excess of three times the cost of similar cover in the UK and is more expensive than the cost of comprehensive cover, which he says was available via other insurers for €130.

The Complainant also takes issue with the fact that insurance cover for his buggy was only available to be purchased through the Provider Broker, with the Insurer. He submits that other Insurers could not quote him, because they did not hold the cover on the golf course itself. He submits that this amounted to a *"monopoly"*.

It is a matter for an individual insurance company to decide whether it wishes to accept any risk or risks associated with incepting a policy of insurance. Furthermore if an insurance company agrees to accept risk or risks under a policy of insurance, then that insurer is entitled to set the appropriate level of premium. It is not the role of this office to interfere with the exercise by an insurance company of its commercial discretion as to whether it wishes to accept particular risks and the level of premium it sets for such.

The Complainant in this instance found himself in a situation where his golf club mandated the requirement of insurance cover for privately held golf buggies, and there was only one insurer offering cover for golf buggies with the Complainant's golf club. The insurance for the golf club itself, was held with a particular insurer and in those circumstances, it seems that that particular insurer decided to accept the risk for the private cover on individual members' golf buggies. The fact that other insurers were offering cover on buggies on other golf courses (not the Complainant's course) as they held such other golf club insurance and would not quote the Complainant, is not a circumstance which was created by the Provider in this instance, nor is it a circumstance that was within the Provider Broker's control. I do not accept that there was any fault on the part of the Provider with respect to the availability of cover or the level of premium level set by the insurer.

Furthermore I note from the evidence that has been submitted to this office, in the form of emails between the Provider and the Insurer, that the Provider made endeavours to seek out alternative cover through other insurers and obtained a quote from another insurer, which was willing to accept the risk with respect to the individual member buggy cover for a lower premium. The proposal that was submitted by the other insurer however, came with specific terms, including that the cover would be on a group basis with minimum numbers of cover holders, and that the new insurer would take over the personal accident cover which was also required to be held by individual members of the golf club. The Provider engaged, with respect to this offer, to ascertain whether the Insurer had any reduced offering. On this basis the Insurer reverted with a new proposal for the renewal for the personal accident and golf buggy insurance. The Insurer also highlighted to the Provider, that moving elements of the insurance to another insurance company would have implications for the golf club insurance.

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Having considered the content of this evidence, it appears to me that the Provider was making best endeavours to highlight to the insurer, the issues regarding cover and premium which had been raised by the Complainant, and to also seek out alternative solutions for the Complainant. Those potential alternatives however, had implications for and imposed requirements on others. Consequently, it appears that finding a solution for the individual Complainant's concerns with respect to the premium, was not something solely within the Provider's control. However it appears to me on the basis of the evidence submitted that the Provider made best endeavours to explore options that might assist the Complainant.

I note that ultimately the Insurer agreed to increase the Complainant's cover to Comprehensive cover and to waive any additional premium on 27 February 2017, as a *"good will gesture".*

With respect to the level of cover, the Complainant has also complained that he was not given full information when the policy was incepted in February 2017, and he understood that the policy covered Third Party, Fire and Theft, but that it subsequently transpired to be Third Party Only. He submits that he only found this out after the policy was incepted. It appears to me that the confusion with respect to the level of cover may have arisen from external communications between the Complainant and his golf club. It is noted that the Complainant himself submitted on 04 September 2017 that he

> "*… was informed by [the golf club] that a deal had been agreed with [Provider] for cover for use/theft for golf buggies.*"

In this regard, the email that issued from the Provider to the golf club, on 23 January 2017, contained a section, as quoted above in relation to cover for buggies owned by members. The content of this email is quoted above, and represents the same content as the email that was sent to the Complainant on 10 February 2017. This email identifies the two types of insurance cover available as

- Third Party and
- Third Party Fire and Theft.

I note that in that email, there was no mention of a comprehensive option.

Consequently, there appears to be a discrepancy between the email and the Proposal Form as to the type of cover available. The Proposal Form outlined the options as Third Party Only and Comprehensive. It may be the case that the discrepancy in the options contributed to some of the confusion with respect to the level of cover. However, the only common option between the email and the Proposal Form was Third Party Only, and the Complainant elected for Third Party Only in the Proposal Form, signed on the 13 February 2017, and the Annual Certificate that issued confirmed that the cover was Third Party.

In any event during the course of the telephone calls between the Complainant and the Provider, after the policy was incepted and the Complainant had received the Annual Certificate, the Provider made it clear that the two types of cover for the insurance were

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Third Party and Comprehensive, it explained what those types of cover meant and advised that if the Complainant wanted to put Comprehensive cover in place, this would require an additional premium of €100.00 which would then give rise to a total overall premium of €260.00. I note that the Complainant himself on these calls accepts that he had assumed that "*Third Party"* meant "*Third Party, Fire and Theft"*. I can find no reasonable basis however to suggest that it was the Provider which led the Complainant to make this assumption and I accept that the Provider was advising the Complainant correctly with respect to the meaning of the different types of cover at this time.

During the course of these calls, I note that the Complainant was also requesting clarification on other issues about the cover and the Provider was not in a position to advise the Complainant of the precise details of the level of cover that had been incepted by the Provider on behalf of the Complainant, with the Insurer. The reason for this is that neither the Provider, nor the Complainant had been issued with any terms and conditions with respect to the insurance Policy by the Insurer, by this time.

During the course of telephone calls between the Complainant and the Provider, the Complainant said that *"I've no terms and conditions. I haven't a clue what I'm covered for".* I appreciate the Complainant's frustration, in this respect, and note that the absence of terms and conditions meant that the Complainant could not fully advise himself of the conditions associated with that level of cover.

In the course of telephone calls that took place between the Complainant and the Provider, the Provider's representative acknowledged that he had engaged with the insurer and they didn't have a *"policy document, just yet".* The Provider's representative also acknowledged that if he himself had taken out insurance, he would also like to have the *"concrete"* terms and conditions *"in his back pocket that he could refer to and the [Complainant] was right"* to seek this.

It appears from the evidence on the file, that the policy was incepted on **13 February 2017** and the Complainant did not receive the Policy Terms and Conditions until **24 April 2017.** From the emails between the Provider and the Insurer, which have been submitted in evidence, it appears that the Provider followed up with the Insurer to seek the terms and conditions on **27 February 2017**.

Chapter 6 of the Consumer Protection Code 2012, imposes certain post sale information requirements on regulated financial service providers. Provision 6.13 outlines as follows;

> *"An **insurance undertaking** must issue policy documents, within five **business days** of all relevant information being provided by the **consumer** and cover being underwritten, to any **consumer** to whom it has sold its insurance policy directly or to any **insurance intermediary** that has sold its insurance policy. An **insurance intermediary** must, within five **business days** of receiving the policy documents from an **insurance undertaking**, provide them to the **consumer**."*

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The CPC 2012, recognises that the obligation is on the insurance undertaking to issue policy documentation to the consumer. This complaint is not however against the Insurer. The only obligation on a broker or intermediary is to forward such policy documents onto the customer within five days of the broker receiving the documents from the insurance undertaking.

In the complaint at hand, the Insurer issued the Schedule and Disc to the Provider for the initial Third Party cover on **15 February 2017**, which was in turn sent to the Complainant and confirmed received on **17 February 2017**.

The Insurer then, having subsequently agreed as a goodwill gesture to increase the cover to comprehensive cover issued an updated Schedule to the Broker on **27 March 2017**, which was in turn sent to the Complainant on **6 April 2017**. The Provider in that respect fell short of the requirements of the CPC 2012, in providing these documents to the Complainant 8 business days later, which was outside of the required 5 business day period.

With respect to the Policy Terms and Conditions that were ultimately sent by the Insurer to the Provider and then onwards to the Complainant on **24 April 2017**, these Terms and Conditions in the header contain the name of another Insurer. The Provider in the email to the Complainant notes as follows;

> *"Please note as [the Insurer] have recently taken over the [Named Insurance] scheme they are mirroring the old [Other Named Insurer] policy".*

Understandably, this created further confusion for the Complainant, as the Policy Terms and Conditions contained the name of another insurer, which was not in any way connected with the Complainant's insurance policy. I note that an email on **25 September 2017**, directly from the Insurer to the Complainant, which was cc'd to the Provider outlines as follows;

> *"The Insurers for your policy are [the Insurer] and not [Other Named Insurer]. [Other named Insurer] were the previous Insurers of the scheme which was subsequently taken over by [the Insurer]. We do appreciate however that some confusion has arisen by the inclusion of an [Other Named Insurer] Policy document. The reason for issuing the [Other Named Insurer] policy was to provide a policy wording for consistency of cover for policy holders whilst we were preparing the policy documentation with the new scheme insurer [the Insurer] as cover is written on the same basis."*

With respect to the time it took to issue the Terms and Conditions to the Complainant (over 2 months) and the fact that they had the name of another Insurer on them, these are matters that were outside the Provider's control. I note from the above exchange that, in the emerging situation after the *Vnuk* ruling by the ECJ, the Insurer accepted that the policy documentation had not been prepared and that it had issued the other insurer's Policy documentation.

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The final element of the Complainant's complaint is that the Provider gave the Complainant contradictory information with respect to the legal requirement for cover and the application of the Road Traffic Act to the policy. I note that the Complainant raised questions in this respect with the Provider by email and telephone.

The first email query, was by email on **22 February 2017**. The Complainant queried amongst other things whether the policy covered use of the buggy on a public road, as the disc was issued under the Road Traffic Act 1961 and the Complainant did not *"intend on driving at any time on the public road."* The Provider responded by email on 22 February 2017 and outlined, amongst other things, that

> *"In turn as this legislation is now binding in Ireland anyone who uses a golf buggy will require this third party cover hence protecting you in the event of property damage, injury or death also….The certificate issued is under the RTA 1961 does in fact allow you to use the buggy on a public road…".*

The Provider further detailed

> *"This type of insurance is new for both myself and the insurance market, in my opinion as this third party cover is compulsory I can see the market growing and all these inconsistencies will be given proper clarity in due course."*

I note that the Complainant and the Provider subsequently had a call where the Provider clarified to the Complainant that the insurance did not cover the use of the buggy on main roads, but that rather it covered *"main roads crossing the golf course".*

The Complainant subsequently raised these issues again, by way of email correspondence on **6 April 2017**. The Provider sought responses to the queries from the Insurer, which responded by email on 10 April 2017. The email responses were then sent to the Complainant on 11 April 2017. The questions and answers are as follows;

> ***"Can you give me the legislation that states that this cover is mandatory as you advised me by e-mail?. The European Commission has given the 14th April as the date to reply on the consequences of the Vnuk ruling from the ECJ. Apparently as the ruling stands it will cause unintended consequences in all of the EU countries. [Name] MEP is dealing with this matter and has criticised the inaction of [Name] our Minister for [Name Department]. Is the ruling ratified and in force in Ireland?***
>
> *Under the RTA mechanically propelled vehicles require insurance cover when being driven in a public place.*
>
> ***The buggy is covered under the RTA 1961. Am I covered to use it on the public road as I have two conflicting emails on this issue**.*
>
> *As per previous advice it is important to recognise where the buggy's use is intended for, but please note the certificate issued does not restrict where the vehicle may be used."*

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The Complainant replied by email on **14 April 2017**, which forwarded an email from an MEP to the Complainant, which outlined;

> *"I have been following the issue of the Vnuk ruling quite closely, that ruling, if imposed, would have disastrous impact for people using vehicles on private land and would mean that all persons using vehicles on private land would have to avail of third party insurance. However, the ruling has not taken effect because the European Commission began the process of amending the Motor Insurance Directive – this is the advice that we have received from the European Commission.*
>
> *While this process is ongoing, the effect of the ruling is suspended. Therefore, as I understand, since the ruling is not in effect there is no obligation for you to take out insurance on your vehicle.*
>
> *The European Commission must complete its amendment process before change can be made to national law. The Irish government has not changed its law on motor insurance to reflect this ruling, so in terms of Irish law, there is no obligation to avail of third party insurance for a vehicle used on private roads/land."*

I note the Complainant then sent a further email to the Provider on 25 April 2017, which queried amongst other things;

> *"Is this insurance obligatory as previously stated?*
> *Is the RTA 1961 the correct legislation to cover this vehicle?*
> *Can you comment on the Vnuk ruling by the ECJ and its bearing on this insurance?"*

The Provider replied by email on **26 April 2017**, as follows;

> *"Mechanically propelled vehicles being driven in a public place require RTA cover.*
> *This is a motor policy under RTA legislation.*
> *It would be best to speak to a solicitor in relation to specific legal rulings".*

The Complainant responded by email on **26 April**, as follows;

> *"You did not refer to the Vnuk judgement by the ECJ below.*
> *You state that mechanically propelled vehicles being driven in a public place require RTA cover.*
> *Under the RTA a public place means any street road or other place to which the public have access with VEHICLES whether as of right or by permission and whether subject to or free of charge.*
>
> *Your comment below means that all buggies used in golf courses since 1960 have been driving illegally without insurance.*
>
> *As for legal advice. I would have thought that all prominent insurance companies are up to date on these matters."*

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I note from the evidence submitted that the Provider ceased communications directly with the Complainant from **2 May 2017**. In an email the Provider advised;

> *"Please note that [the Insurer] is in receipt of correspondence in relation to your complaint from the Financial Services Ombudsman and we are formally responding to that enquiry. As the complaint is with the FSO, we will be restricting correspondence to their offices and will engage with FSO office in line with rules. It is best that we respond directly as you have chosen to pursue the complaint with that office."*

The Complainant then commenced communicating directly with the Insurer. The Insurer by email on 25 September 2017, advised as follows;

> *"as to the requirement for motor cover we did write to all Golf Clubs recommending that owners of a buggy should have motor insurance cover as the Road Traffic Act applies to all places/areas to which the public has access to and [i]t is our opinion that Golf Courses including the carpark are considered a public place."*

On the basis of the evidence before me, I accept that the Complainant was given conflicting information by the Provider with respect to the legal requirement for cover and the application of the Road Traffic Act. The first communication on 22 February 2017, indicated that there was a requirement under legislation and that the buggy could be driven on public roads. That said, however, the Provider representative did indicate that is was an *"opinion"* and that there were certain *"inconsistencies"* at the time. I note that thereafter the Provider furnished consistent responses with respect to the application of the Road Traffic Act and whether a mechanically propelled vehicle required cover when being driven in a public place. The Provider has submitted as follows;

> *"… we act as a Broker on behalf of the client to the insurers. We do not have any say in rulings in relation to the Road Traffic Act or its obligations and therefore feel that we advised correctly to the client in this case. We supplied the client with answers to all his queries and feel we provided good customer service and advice to [the Complainant] in all aspects outside of the Insurance queries."*

From a review of the evidence and the exchanges, I accept that the Provider gave the Complainant the best information available to it. The Provider also escalated the queries and sought clarification from the Insurer. From a review of the exchanges between the Complainant and the Provider, it appears that the core issue that the Complainant was seeking to determine, was whether there was a requirement in law for private insurance on his golf buggy. I note from the exchange above, that the Complainant had sought clarification and received an opinion from an MEP on **14 April 2017** on the requirement for insurance. Indeed, since the preliminary decision in this matter was issued by this office, the Complainant has sought to have the FSPO address a number of queries concerning the outcome and implications of the judgment of the ECJ in *Vnuk.* Such matters do not however fall within the jurisdiction of this office.

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In the circumstances of this matter, it seems that the requirement for private insurance on individual members' golf buggies was imposed by the golf club, on foot of legal advice received by the golf club. Consequently, it was of limited relevance to the Complainant's position, whether it was a legal requirement or not. The golf club had mandated it. In this respect, I also note that the Complainant was given the option of cancelling the policy for a refund at various points in time, but did not elect to do so until 10 months later, and I note in that respect that the policy was cancelled on **13 December 2017**. This was confirmed by the Insurer directly with the Complainant by email on **15 December 2017**. I note that the Complainant was refunded €157.50 (this sum comprising the premium and government levy). The Provider's fee of €2.50 was not refunded to the Complainant.
To conclude, there were some minor shortcomings in the service from the Provider to the Complainant, in that, certain documents were not transmitted onward to the Complainant within the time set out in the CPC and the Complainant was given confusing and misleading information on two occasions.

Having considered the matter at length, my Decision is that this complaint is partially upheld. I note the premium refund secured by the Complainant from the insurer since he originally made this complaint, advising that he was out of pocket. Accordingly, to mark these failures, and in order to conclude, I consider it appropriate to direct the Provider to pay a compensatory figure of €50 to the Complainant, in respect of any inconvenience sustained.

Conclusion

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

- Pursuant to ***Section 60(4) and Section 60 (6)*** of the ***Financial Services and Pensions Ombudsman Act 2017,*** I direct the Respondent Provider to make a compensatory payment to the Complainant in the sum of €50, 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

10 February 2020

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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.