



<b><u>Decision Ref:</u></b>	2020-0069
<b><u>Sector:</u></b>	Insurance
<b><u>Product / Service:</u></b>	Van
<b><u>Conduct(s) complained of:</u></b>	Dissatisfaction with customer service
<b><u>Outcome:</u></b>	Rejected

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

**Background**

The Complainant is a limited company and D.1 and D.2 are Directors of this company. The Complainant holds three individual commercial van insurance policies with the Provider, a Broker.

**The Complainant's Case**

In its email to the Provider dated **11 April 2018**, the Complainant summarised its complaint, as follows, *"the handling of my policies; mistakes and errors made; policy lapsed in error resulting in [D.1] driving without cover; payment of premium paid against another client's policy; receiving another client's documentation; complaint against [Ms E.] in relation to telephone conversation had with [D.2] on the 10<sup>th</sup> April 2018"* and questioned *"is it acceptable practice to note [D.1] as a main driver on all my commercial van policies?"*

In its further correspondence to the Provider dated 12 April 2018, the Complainant states, *inter alia*, as follows:

*"I wish to raise an official complaint...against your company...for their dealings / misinformation in relation to the handling of my policies since their inception and a separate complaint against your Compliance Officer [Ms E.] for her threatening and disgusting manner in which she has dealt with me over the phone.*

*From my first dealings with [the Provider] I have found the customer service to be sub-standard to say the least. There has been numerous errors and mistakes made over several years resulting in [D.1] driving without cover in place due to staff errors, incorrect information given about claims and premiums that were made being applied against a completely unconnected policy.*

*My latest dealings...was a telephone call which began on 9<sup>th</sup> April 2018. I rang [the Provider's] office looking to organise a letter of driving experience for one of the [Complainant's] employees. Upon my request the customer advisor put me on hold several times and could not answer any of my queries. I asked for a manager to phone me back and [S.] then called me back on the 10<sup>th</sup> April at 11.09am. The call lasted 3 mins 33 seconds and I was shocked at the manner in which she spoke to me, so much so that it promoted me to hang up as she was shouting down the phone at me in an extremely aggressive and completely unnecessary manner.*

*[Ms E.] subsequently contacted me to take over the dealings from [S.] in order to resolve the issue. Instead of resolving the matter she has in turn turned this into an extremely distressing and unneeded experience for me with her vicious phone calls and lack of professionalism. She has now told me that I was never originally speaking to a "[S.]" and it was her all along that took the call. She also advised me on a previous call that she listened back to my call with "[S.]" and told me that I deserved the way I was spoken to as I was asking some quite technical questions! She has since back tracked now and advised that [the Provider's] calls are not recorded and she has no evidence of the said call.*

*She has sent me a number of emails...and the latest phone call I received off her was today 12<sup>th</sup> April 2018 at 1.15pm which she made from her mobile on a private number and proceeded to attack me down the phone. She accused me of being vindictive, having an ulterior motive for making the complaint, said I worked for one of [the Provider's] biggest competitors and then most shocking quoted the phrase "I am not retarded [D.2]" at least three times during the call.*

*I was on my lunch break at the time of the call and a number of my colleagues heard every word of what she said to me and the way she spoke with me. I was left physically shaken and upset after the call so much so that I was sent home from work to gather myself.*

*After I terminated the call [Ms E.] proceeding to ring [D.1] also on a private number and asked for an "off the record conversation" in which [Ms E.] spun him a web of lies where she insisted that she knew me well, had previously trained me and was a close friend of my Company's director in order to talk him around. Due to this conversation I had no option but to notify my employer of this issue between [the Complainant] and [the Provider]. I would like to clarify that my correspondence with [the Provider] is as a client not a competitor as [Ms E.] suggested and at no stage did I disclose which company I am employed by.*

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*I want a full investigation carried out to investigate what way [the Complainant's] policies were set up, what No Claims Bonuses were used and written confirmation that [D.1] who is the main user of all 3 vehicles is entitled to be so as per your advices.*

*I want a review of all errors made on all policies from inception to present and explain how they occurred and confirm what remedial action has taken place and assurances no further errors will be made".*

The Complainant complains that there were "*mistakes made [by the Provider] on policies dating back to 2016*". In addition, the Complainant notes that Ms E., a Compliance Manager with the Provider, "*has threatened legal action as a result of [the Complainant's] customer service complaint [with the Provider] and posted a solicitor's letter [dated 15 May 2018] to [D.2]'s full time employee (separate business to [the Complainant]) suing her personally for defamation of character*". The Complainant considers this to be a "*Breach of data Protection – [the Provider] shared our information to a Third Party (solicitor) without permission*".

The Provider responded to the Complainant's letter of complaint dated 12 April 2018 by way of its correspondence dated 23 April 2018, wherein it advised, *inter alia*, as follows:

*"[The Provider] would like to sincerely apologise for the situation that has arisen at this time and we also like to note that there has been errors on your file of which [the Provider] have always acknowledged and dealt with at the time. [The Provider] did however rectify all mistakes, reimbursed an additional premium due on the account and waived all broker fees on your account as a gesture of goodwill".*

In this regard, the Complainant notes, as follows:

*\*\* agreed to waive broker fees – however recent renewals papers include a €60 admin charge per policy*

*\* offered cinema tickets – not received – not acceptable*

*\* solicitor's letter states we were offered other compensatory offerings – this is not the case + we have not been offered anything.*

*\* I do acknowledge we did receive apologies with regards to errors made on policies, however [the Provider] have totally disregarded our customer service complaint. Although an apology was made by the employee in question [Ms E.] on one occasion this was followed by a telephone call where the employee was aggressive, intimidating + threatening*

*\* Conflict of interest – the employee in question [Ms E.] regarding customer service dealt with her own complaint from start to finish, even though we requested no further contact from the employee".*

As a result, the Complainant seeks the following:

*“Apology.*

*Legal action to be withdrawn.*

*Confirmation from [the Provider] this doesn’t happen again – no further mistakes to be made on policies.*

*Monetary compensation as a result of stress + risk of losing employment as a result of [Provider’s] compliance officer sending solicitor’s letter addressed to [D.2’s] job”.*

The Complainant’s complaint is that the Provider made a number of errors in relation to its handling of the three individual commercial van insurance policies that the Complainant holds with the Provider, and that the Provider then provided the Complainant with poor and unacceptable customer service when it later queried these errors.

### **The Provider’s Case**

Provider records indicate that the Complainant Company holds three individual commercial van insurance policies with the Provider. Despite this complaint that the Complainant has had with the Provider since April 2018, the Provider notes that all policies renewed and the Complainant remains a client of the Provider. In this regard, the Complainant renewed policy ending 577 on 23 January 2019, policy ending 403 on 9 June 2019 and policy ending 128 on 15 June 2019. In addition, the Complainant holds a public liability policy via the Provider, which renewed on 14 January 2019 and as an aside, for information purposes, the Complainant was away on business and did not have a card with which to pay the premium due on the renewal date but the Provider held cover and allowed the Complainant to pay the premium past the renewal date. The Provider confirms that all policies on cover for the Complainant are in order and all previous errors have been rectified and that there are no outstanding queries on file.

By way of background, the Complainant first came to the Provider with a different company name, “Co. R”, which over time changed, as did the Directors. D.1 was a Director of both Co. R and the Complainant Company, but the other original Director of Co. R is not covered under the current Complainant company name. As this person is not party to this complaint and is also still a client of the Provider, the Provider is limited in the information it can share in this regard as this individual was involved in the setting up of the original policies, the renewal instructions and the payment of premiums. From the outset, the Provider also held live files for the two Directors of Co. R in their own personal capacities. The Provider notes that the change in company name and Directors meant that policy changes and premium payments were conducted by various parties over the years since inception.

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This complaint has arisen as D.2 contacted the Provider in April 2018 to request a letter of named driving experience for a driver/employee that was not named on the policy she was referring to. This policy was set up by agreement with the client at the outset, as an open driving 25-70 policy, therefore there were no named drivers named on the policy. Ms E. offered to obtain a letter of claims experience from the insurer indicating that no accidents or incidents had occurred on the policy, but this offer was not taken up by the Complainant. In addition, the Provider also offered to add this driver/employee to the policy, but this offer was also not taken up at that time. Provider records indicate that this driver/employee was since added on 18 October 2018.

The Provider notes that D.2, who has been dealing primarily with this complaint, advised Ms E. by telephone that as she was employed fulltime in a broker firm herself, she would get a colleague to contact the Provider to arrange an agency transfer to effectively transfer the business from the Provider to the broker firm in which she worked. Ms E. confirmed to D.2 that she would facilitate this transfer, however the Complainant did not proceed with an agency transfer.

Provider records indicate that the three van insurance policies as they are in their current form originated from a different company name, Co. R and were first inceptioned on a mixture of earned no claims bonuses and mirrored bonuses, which some of the insurers on the Provider's panel give an introductory discount for. All three policies now have their own earned bonuses, which were provided to D.2. on request in April 2018 and at the renewal stage of each policy, as required under ***S. I. No. 74/2007 Non-Life Insurance (Provision of Information)(Renewal of Policy of Insurance) Regulations 2007***. The Provider is satisfied that the current policies on cover in the name of the Complainant company are set up in the Complainant's best interest and as instructed by the current director(s) of the Complainant company.

The Provider has at all times confirmed that there were a number of administration errors made on the files. These errors occurred due, *inter alia*, to the changing of the Complainant company name and the numerous files in existence for the Complainant and the previous company, Co. R and the personal files for each of the original directors of Co. R, which included D.1. In this regard, both directors of the original company Co. R, contacted the Provider at different times to pay for different policies, both personal as well as company policies. The Provider offered apologies at the time these errors were identified and these apologies were accepted, the errors corrected and the Complainant company suffered no financial detriment at any time.

In this regard, the Provider notes that the matter referred to by the Complainant (the "*payment of premium paid against another client's policy*" or "*premiums that were made being applied against a completely unconnected policy*") occurred as the policy in question belonged to the former director of Co. R and the premium was allocated incorrectly to that policy. The policy was not entirely "*unconnected*", as suggested by the Complainant, and once the error was identified it was immediately corrected and the Provider confirms that at no point was the Complainant's driving uninsured.

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As a result of this error, the Provider agreed to waive its broker administration fees on this particular policy and registration plate only, for a period of two years, it apologised for its error and this apology was accepted and the matter resolved and closed.

The Provider notes that the other matter referred to by the Complainant as *“receiving another client’s documentation”* or *“incorrect information given about claims”* involved a claim on a motor policy in the name of D.1.. This claim had been previously closed but later re-opened when a personal injuries claim came through to the relevant insurer. As this policy was in the personal name of D.1 and not in the Complainant company name, this claim sat on his personal file and not on the Complainant company file. The letter regarding the claims update was sent by the relevant insurer to D.1 on 23 June 2017 to his home address. The Provider, however, mistakenly emailed a copy of this letter to the Complainant company on 30 June 2017. Once this error was identified, the Provider correctly placed the claim papers on D.1’s personal file, apologised for its error and this apology was accepted and the matter resolved and closed.

To this end, the Provider, as a gesture of goodwill, refunded its broker administration fees on all three commercial vehicle policies that the Complainant held with the Provider for 2018 and 2019.

Following a series of issues between D.2. and the Provider administration team, the Complainant Company’s file was passed to Ms E., a Compliance Manager with the Provider, in April 2018. D.2. had stated to the Provider staff that she was an insurance broker herself and that the Provider staff had set up the Complainant’s three commercial vehicle policies wrongly and that they did not know what they were doing. Ms E. telephoned D.2. on two occasions, on 10 April and again, shortly afterwards. The Provider has listened to a recording of these telephone calls and notes that at all times, Ms E. clearly introduced herself as such and that at no stage did she attempt to pose as another staff member and the Provider believes that D.2 is factually incorrect when she states otherwise. The Provider acknowledges that the telephone calls were at times trying on both sides and a personality clash was apparent. Towards the end of the second call the tone lightened and Ms E. had followed up with an email attaching all No Claims Bonuses as requested and also an apology with an offer of cinema tickets that was not responded to and hence no cinema tickets were posted.

Following these telephone calls, Ms E. contacted D.1. in an effort to calm the situation and to this end advised that she would appoint Ms F. as the Complainant company’s sole point of contact as Ms E. and D.2. had experienced a clash of personalities and Ms E. believed there was a conflict in her dealing with the file. D.1 accepted this and an email followed, confirming the contact details for Ms F., who is a senior manager and part of the overall Provider management team. At this stage, Ms E. explained the situation to the Provider Managing Director as it had arisen, and as she had removed herself from the file, she was not involved any further with any complaints or responses with the Complainant.

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It is the view of the Provider, and indeed of Ms E. herself, that the matter could at times have been handled differently but a clash of personalities led to this complaint. Ms E. has apologised to D.2. for the manner in which she dealt with her. The Provider believes that this was a difficult case with accusations being made by a competing broker as to the conduct of the Provider and this is what caused the tension and stress to both parties. The Provider Managing Director has known Ms E. for many years and there has never been a concern as to her integrity or professionalism. The Provider confirms that this matter has caused deep upset and stress to Ms E., especially when a letter of complaint written by D.2. was received stating that Ms E.'s manner was "*threatening and disgusting*" and asking for her to be investigated. Following this, the Provider notes that Ms E. met with own personal legal representative, who wrote to D.2. on her behalf. This letter is a personal matter between Ms E. and D.2. and the Provider is not a party to it. That said, the Provider enclosed a letter of apology from Ms E. to D.2., which indicates that she is willing to retract her solicitor's letter, should her apology be accepted and the matter concluded.

The Provider prides itself on its customer care and service and strongly disputes D.2.'s assertion that its staff did not know what they were doing. The Provider is a significant van insurance broker in the market and it has invested significant resources in setting up an inhouse training programme with a dedicated inhouse fulltime trainer. All its staff are trained fully in van insurance and are at a competitive advantage in that they are experts in the field of van insurance. All staff comply with the Central Bank of Ireland's Minimum Competency Code and Ms E. herself has developed an accredited in-house CPD training method so that Provider staff can obtain CPD hours annually through on-site training and development. These courses are certified and approved by the Insurance Institute of Ireland.

The Provider confirms that previously there were errors made on the Complainant Company's file and that these were dealt with promptly and rectified without delay and no financial detriment was suffered by the Complainant at any stage. The Provider has apologised for these errors and offers its apology again to the Complainant. To this end, the Provider does not wish to make an offer of compensation as it considers that it has compensated the Complainant on an ongoing basis in relation to broker administration fees being waived on the file entirely, for 2018 and 2019.

### **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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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 16 January 2020, 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 complaint is that the Provider made a number of errors in relation to its handling of the three individual commercial van insurance policies that the Complainant holds with the Provider, and that the Provider then provided the Complainant with poor and unacceptable customer service when it later queried these errors.

In this regard, I note that the Provider acknowledges that there were a number of administrative errors made on the Complainant's policies in the past. I note from the documentary evidence before me that once identified, the Provider corrected and apologised for these errors and the Complainant accepted the apologies. In acknowledging these errors, I note that the Provider also refunded to the Complainant its broker administration fees on all three commercial van insurance policies for 2018 and 2019, and that the Complainant has since renewed all three policies via the Provider. As a result, I am satisfied that these administrative errors were satisfactorily resolved between and by the parties at these earlier times.

The remaining complaint at hand is therefore, in essence, in respect of the manner in which Ms E., a Compliance Manager with the Provider, dealt with D.2., a Director of the Complainant Company, in April 2018.

In this regard, I note that D.2. telephoned that Provider on 9 April 2018 seeking a letter of named driving experience for a particular driver/employee but was advised that she could not be furnished with this as the three commercial van insurance policies that the Complainant hold via the Provider are open driving policies, with only D.1 specifically named as the main driver on each, as the Director of the Complainant company. It was in this context that Ms E. first rang D.2. on 10 April 2018 and again, shortly afterwards.

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I have listened to the recording of these two telephone calls from Ms E. to D.2. and it is evident that Ms E. was at the outset and at various times throughout, both assertive and curt in her attempts to explain the matter to D.2. and to ascertain the exact nature of the query and the complaint and how D.2. wanted to see the matter resolved. That said, it would appear towards the end of the second telephone call that the tone did lighten somewhat and that Ms E. presented D.2. with an alternative, in terms of her offering to obtain a letter of claims experience from the relevant insurer indicating that no accidents or incidents had occurred on the policy in question.

I also note that during the first telephone call D.2. alluded to the previous administrative errors made by the Provider, which I have noted above had already been satisfactorily resolved between and by the parties at the time, and advised Ms E. that the Complainant company was going to request a transfer of agency and “we’ll just move the policies”. It is clear that this, in part, fuelled the tension and tone of that telephone call and the one that took place shortly after.

I note from the documentary evidence before me that Ms E. sent the following email to D.2. on 12 April 2018, as follows:

*“As part of the ongoing complaint with [the Complainant] and [the Provider] and the fact that you initially lodged this complaint I would like to acknowledge...and sincerely apologise for the manner in which you feel you were dealt with in relation to your recent request for letter of driving experience and subsequent information on no claims bonus documents in use on each vehicle insured with [the Provider] ...*

*I will deal with this matter in my formal response to the Director of [the Complainant] also but this is just to you personally. I would also like to rectify one detail...it was not [S.] you were speaking with in the call it was me so I do apologise if you felt intimidated etc but I was trying to explain the situation from our side which I obviously failed to do and I do apologise sincerely”.*

I note that the Complainant wrote to the Provider on 12 April 2018 with an official complaint, as follows:

*“[Ms E.] subsequently contact me...to resolve the issue. Instead of resolving the matter she has in turn turned this into an extremely distressing and unneeded experience for me with her vicious phone calls and lack of professionalism. She has now told me that I was never originally speaking to a “[S.]” and it was her all along that took the call. She also advised me on a previous call that she listened back to my call with “[S.]” and told me that I deserved the way I was spoken to as I was asking some quite technical questions! She has since back tracked now and advised that [the Provider’s] calls are not recorded and she has no evidence of the said call.*

*She has sent me a number of emails...and the latest phone call I received off her was today 12<sup>th</sup> April 2018 at 1.15pm which she made from her mobile on a private number and proceeded to attack me down the phone. She accused me of being vindictive, having an ulterior motive for making the complaint, said I worked for one of [the Provider's] biggest competitors and then most shocking quoted the phrase "I am not retarded [D.2]" at least three times during the call.*

*I was on my lunch break at the time of the call and a number of my colleagues heard every word of what she said to me and the way she spoke with me. I was left physically shaken and upset after the call so much so that I was sent home from work to gather myself.*

*After I terminated the call [Ms E.] proceeding to ring [D.1] also on a private number and asked for an "off the record conversation" in which [Ms E.] spun him a web of lies where she insisted that she knew me well, had previously trained me and was a close friend of my Company's director in order to talk him around. Due to this conversation I had no option but to notify my employer of this issue between [the Complainant] and [the Provider]. I would like to clarify that my correspondence with [the Provider] is as a client not a competitor as [Ms E.] suggested and at no stage did I disclose which company I am employed by".*

I have listened to the recordings of the two telephone calls before me and whilst Ms E. was at times throughout both assertive and curt in her dealings with D.2., I do not consider that she was abusive. I note that D.2. refers to a telephone call that she received from Ms E. at 13:15 on 12 April 2018, "*which she made from her mobile on a private number and proceeded to attack me down the phone. She accused me of being vindictive, having an ulterior motive for making the complaint, said I worked for one of [the Provider's] biggest competitors and then most shocking quoted the phrase "I am not retarded [D.2]" at least three times during the call*".

No recording of any such call is available.

In addition, I note that solicitors acting on instruction from Ms E. wrote to D.2. on 15 May 2018, using the address of the broker firm that D.2. is employed with. Having read the contents of this correspondence, it is clear to me that this letter is written on behalf of Ms E. personally and I am satisfied that the Provider is not a party to this letter and therefore has no case to answer in respect of its contents or delivery. In this regard, the actions of Ms E. in her personal capacity do not fall within the remit of this Office.

It is unfortunate that the telephone calls that took place between Ms E. and D.2. has resulted in this complaint. I note, however, that in her original complaint, D.2. advised that she wanted an "Apology" and for the "Legal action to be withdrawn". In this regard, I note that the Provider included in its response to this Office to this complaint, a letter from Ms E. to D.2. dated 29 April 2019, which provides, as follows:

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*“Dear [D.2.],*

*I would like once again to apologise for the manner in which you were dealt with in relation to your issues with the firm I am employed with in April 2018.*

*While I found the conversation difficult, it was never my intention to cause any stress, only to resolve the files and issues for you.*

*I have never had an issue such as this in my career to date and it has also caused me enormous personal stress. I am happy to retract the solicitors letter issued to you should you accept my apology.*

*I was not long in my place of employment and found it deeply upsetting to have my professionalism attacked and to be called disgusting to my employer, which made me concerned for my livelihood, hence my contact with my solicitor whose advice I followed.*

*In any event, I do offer my apologies once again and I hope this is the end of this matter and that we can put matters behind us and move forward”.*

It is to be hoped that this apology and the proposed course of action, will conclude the unfortunate events which transpired between these two ladies. Insofar as the conduct of the Provider is concerned however, I am satisfied that it has no further case to answer and it is my Decision therefore, on the evidence before me that this complaint should not be upheld.

### **Conclusion**

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

**The above Decision is legally binding on the parties, subject only to an appeal to the High Court not later than 35 days after the date of notification of this Decision.**

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

7 February 2020

**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—**

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- (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.**

