



<u>Decision Ref:</u>	2020-0244
<u>Sector:</u>	Insurance
<u>Product / Service:</u>	Car
<u>Conduct(s) complained of:</u>	Failure to provide no claims bonus/ inaccurate no claims bonus Dissatisfaction with customer service Maladministration
<u>Outcome:</u>	Upheld

LEGALLY BINDING DECISION OF THE FINANCIAL SERVICES AND PENSIONS OMBUDSMAN

The Complainant incepted a motor insurance policy with a named Insurer on **1 August 2018**, via the Provider, an Insurance Intermediary.

The Complainant's Case

The Complainant sets out her complaint in her Complaint Form, as follows:

"My car insurance renewal was due on 31st July [2018]. I contacted [the Provider] on [12th] July as I was considering switching car insurance providers. I was quoted €684.17, which included full no claims bonus protection at the cost of €60. This quote was a little lower than the renewal invitation from [my previous Insurer, "with whom I had 4 years No Claims Bonus Protection remaining"] so I transferred my car insurance ...

After this I received multiple different versions of my car insurance documents. On later versions the No Claims Bonus protection was marked '✘' ... It wasn't until the 4th August that I found out...that I only had step-back bonus protection.

At that stage the [renewal] quote [from my previous Insurer] was no longer valid so I could not cancel [my new policy] and go back to [my previous Insurer]. On top of this I was told that [the Provider] had not informed [the new Insurer] of my claim in October 2017 so my premium was about €200 higher (although [the Provider] agreed to cover the difference from 1st August 2018 to 31st July 2019)".

The Complainant says that he had disclosed a previous claim dating from October 2017 to the Provider by telephone on 12 July 2018, which it then failed to notify the Insurer of. This resulted in the Insurer effecting policy *****345 for the Complainant with full no claims bonus protection, when it would not have done so had it been aware of the previous claim. Similarly, the premium charged was lower than that which the Insurer would have charged had the Provider made it aware of the previous claim.

When this error came to light, the Provider cancelled policy *****345 and arranged policy *****670 for the Complainant with the Insurer, this time advising the Insurer of her previous claim. This resulted in the new policy providing step-back bonus protection only, for a higher premium than that which the Complainant had initially paid to the Provider for policy *****345.

A full no claims bonus protection is where the policyholder can incur one third party or own damage claim, amount unlimited, in a 3 year period without any loss of the no claims discount, whilst a step-back bonus protection operates is where the policyholder makes a claim, the no claims bonus will be stepped back by 3 years, for example, from 5 years to 2 years.

As a result, the Complainant submits in her Complaint Form, as follows:

"In order to ensure I have not been financially penalised by the errors of [the Provider] I request the following:

- 1) I want [the Provider] to cover the difference between the current premium and a future premium if my no claim bonus is stepped back over the next 4 years.*
- 2) I want [the Provider] to cover the difference between having a policy with a previous claim, versus a policy with no claim (as per the agreement in place with [the Provider] this year). Again I want this cover from [the Provider] in place for the next 4 years.*

If these 2 requests cannot be met by [the Provider] I would ask that some financial compensation be offered".

The Provider's Case

Provider records indicate that the Provider, an Insurance Intermediary, arranged a motor insurance policy for the Complainant with a named Insurer, which commenced on 1 August 2018 and remains in force.

The Complainant telephoned the Provider on 12 July 2018 to obtain a motor insurance quote with full no claims bonus protection. She disclosed a previous claim that the Agent inputted incorrectly as a 'non-fault claim', resulting in the claim details not being transmitted onwards to the Insurer.

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A quote was then given to the Complainant that included full no claims bonus protection. Following this, policy *****345 was put in place for the Complainant with a commencement date of 1 August 2018.

On **12 July 2018**, the Provider sent the Complainant the policy documents and the enclosed Statement of Fact confirmed that this policy was set up on a step-back bonus protection basis.

On **18 July 2018**, having examined these policy documents, the Complainant telephoned the Provider to advise of a number of errors, namely that:

- she did not have comprehensive cover for her driving other cars;
- her spouse, a named additional driver on her policy, owned his own vehicle, when he did not; and
- the details of her disclosed claim were 27 October 2017 for the amount of €786, rather than 1 October 2017 for €839.

This matter was referred to a Supervisor and policy *****345 was cancelled and replaced with policy *****670, this time including comprehensive cover for the Complainant driving other cars, with a commencement date of 1 August 2018. This was confirmed with the Complainant by telephone and the new policy documents were sent to her on 23 July 2018 and the Certificate of Insurance and disc on **24 July 2018**.

On **4 August 2018**, the Complainant telephoned the Provider as she had noticed that the new documents indicated that the policy did not provide her with full no claims bonus protection, and this was referred to a Supervisor to retrieve the relevant telephone call recordings.

On **9 August 2018**, the Supervisor telephoned the Complainant to discuss this matter. It was noted that policy *****670 had been set up with step-back bonus protection, even though the Complainant had requested full no claims bonus protection. The Provider acknowledges that it was not explained to the Complainant at the time her policy was put in place, that this was due to the Insurer's acceptance criteria and it accepts that she understood that her policy included full no claims bonus protection. In this regard, the Supervisor confirmed to the Complainant that full no claims bonus protection could not be applied to her policy due to her previous claim, which had also been recorded incorrectly insofar as it had been listed as a 'non-fault' claim when it should have been listed as an 'at fault' claim.

The Complainant advised that she had been making efforts to get back on cover with her previous insurer, where her policy had included full no claims bonus protection, as she was now in a position where this was not included on the new policy that the Provider had arranged for her, despite her having understood when purchasing the policy that it was. The matter was referred to a Sales Supervisor.

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On **10 August 2018**, a Sales Agent telephoned the Complainant to confirm that due to the Insurer's acceptance criteria, it could not provide her with full no claims bonus protection.

The Provider referred the matter to the Insurer to review, advising that the claim disclosed by the Complainant had been initially incorrectly noted by its Agent as 'non-fault' instead of 'at fault' and it requested that the Insurer keep the Complainant on cover; normally an 'at fault' claim on record would place the customer outside of the Insurer's acceptance criteria. In this regard, the Insurer confirmed to the Provider on **21 August 2018** that it would keep the Complainant on cover, notwithstanding the 'at fault' claim, though due to its acceptance criteria it was unable to grant full no claims bonus protection on the policy.

On **2 October 2018**, following its full investigation of the matter, the Provider wrote to the Complainant to advise that if she opted to move her insurance to an alternative insurer, which would offer her full no claims bonus protection, the Provider would refund her the full premium for policy *****670, and it would also pay the difference in premium between this policy and the premium she had to pay for the new policy. Alternatively, if the Complainant choose to remain with the Provider, in the event of a claim, her bonus will be stepped back but the Provider will cover the premium difference between the amount it should be if there was not a claim, and the new adjusted premium, post-claim.

On **9 October 2018**, the Complainant responded to the Provider requesting that for the next four years, the Provider cover the difference between the current and future premium if her no claims bonus if stepped back. She also asked that for the next four years, it also cover the difference in premium between her having a policy with a previous claim recorded and a policy with no previous claim recorded, as the Provider had failed to notify the Insurer of her previous claim, which when it came to light resulted in a higher premium.

The Provider notes that the Complainant was and is availing of her full no claims bonus, however, in the event of a future claim, her bonus will be stepped back by three years. Having fully reviewed the matter, the Provider confirmed to the Complainant in its correspondence dated **2 February 2019** that, for the following 4 years, in the event of a claim and the no claims bonus being stepped back, it would cover the premium difference between the amount it should be if there had not been a claim, and the new adjusted premium post-claim. In addition, it confirmed that it would also cover the difference in premium between having a policy with a previous claim recorded and a policy with no claim recorded, for the next four years.

The Provider acknowledges that it is clear that a number of errors were made from the start, however, it offered the Complainant what she has requested, in order to resolve this matter. In addition, the Provider apologised to the Complainant for this poor customer experience, and the inconvenience that it has caused her.

The Complaint for Adjudication

The Complainant's complaint is that in July 2018, the Provider mis-sold her a motor insurance policy.

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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 **19 May 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.

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

On **1 August 2018**, the Complainant incepted a motor insurance policy with a named Insurer, via the Provider, which is an Insurance Intermediary. The complaint at hand is that the Provider mis-sold the Complainant this policy.

In this regard, the Complainant telephoned the Provider on 12 July 2018 to arrange motor insurance cover and I note that she disclosed to the Provider at that time, a previous claim she had with her then current insurer, dating from October 2017.

Following discussions, the Provider arranged policy *****345 for the Complainant and the policy documents were sent to her on 12 July 2018, with a policy commencement date of 1 August 2018.

I note from the recordings of the telephone calls furnished by the Provider that it was confirmed to the Complainant during the telephone calls at 16:32 and again at 17:21 on 12 July 2018 that the premium in respect of policy *****345 included an additional sum for full no claims bonus protection.

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However, I note that in its Complaint Response to this Office dated 6 February 2020, the Provider advises that policy *****345 “was set up on a step-back bonus protection basis, as confirmed on the Statement of Fact that was issued”. This is not, however, borne out by the documentary evidence before me.

In this regard, the Provider sent documents in respect of policy *****345 to the Complainant dated 12 July 2018. The enclosed ‘Reasons Why Statement – Summary of Cover’ advised “Full No Claims Bonus protection ✓” and “Step Back Bonus Protection ✓”, indicating that both applied. In addition, the enclosed ‘Car Insurance Statement of Fact’ stated, *inter alia*, “No Claims Discount Protection: Full”.

I am therefore of the opinion that it was incorrect of the Provider to have stated in its correspondence of 6 February 2020 to this office that policy *****345 “was set up on a step-back bonus protection basis, as confirmed on the Statement of Fact that was issued”, when the policy documents, including the Statement of Fact, suggest otherwise.

I note that the Complainant, having examined the policy documents in respect of policy *****345 dated 12 July 2018, telephoned the Provider on 18 July 2018 to advise of a number of errors contained therein, namely, (1) that she did not have comprehensive cover for her driving other cars, which she wanted; (2) that her spouse, a named additional driver on her policy, was noted as owning his own vehicle, when he did not; and (3) that the details of her disclosed claim were in fact 27 October 2017 for the amount of €786, rather than 1 October 2017 for €839.

I note that the Provider advises that this matter was subsequently referred to a Supervisor and policy *****345 was cancelled and replaced with policy *****670, to include comprehensive cover for the Complainant driving other cars, also with a commencement date of 1 August 2018. In addition, the Provider advises that this cancellation was confirmed with the Complainant by telephone and that new policy documents were sent to her on 23 July 2018. I note that the ‘Reasons Why Statement – Summary of Cover’ enclosed with the documents in respect of policy *****670 this time advised “Full No Claims Bonus protection ✗” and “Step Back Bonus Protection ✓”, indicating that only step back bonus protection applied. In addition, the enclosed ‘Car Insurance Statement of Fact’ stated, *inter alia*, “No Claims Discount Protection: Step Back”.

I note that the Provider has acknowledged from the outset that it incorrectly recorded details of the claim the Complainant disclosed to it on 12 July 2018. Due to this error, the Provider has advised that the claim details were not transmitted onwards to the Insurer which, in turn, enabled policy *****345 to be effected with full no claims bonus protection.

Had the claim details been referred to the Insurer as and when they ought to have been, the Provider has advised that a full no claims bonus protection would not have been applied to the Complainant’s policy, due to her previous claim, in line with the acceptance criteria of the Insurer.

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When the Provider cancelled policy *****345 and replaced it with policy *****670, on the basis of providing the Complainant with comprehensive cover for her driving other cars, this new policy removed the full no claims protection bonus, presumably because the Provider this time correctly referred the details of the Complainant's previous claim to the Insurer.

I note that the new policy documents that the Provider then sent to the Complainant in respect of policy *****670 dated 23 July 2018 confirmed that the full no claims bonus protection did not apply.

It is regrettable that, apart from sending her a new set of policy documents, the Provider did not contact the Complainant to specifically make her aware of its error in noting her previous claim. Neither did it explain to her that the Insurer could not in fact provide her with full no claims bonus protection, particularly given that the policy documents in respect of policy *****345 dated 12 July 2018 had confirmed that full no claims bonus protection did apply and indeed that the Provider had confirmed twice to the Complainant by telephone on 12 July 2018, that the premium in respect of policy *****345 included an additional sum, for full no claims bonus protection.

I note that the Complainant telephoned the Provider on 4 August 2018, as she was now in receipt of the documents in respect of policy *****670 dated 23 July 2018. Having listened to a recording of this telephone call, I note that she was understandably confused and advised,

"I have no idea why that policy number was issued to me. It doesn't have my full no claims bonus protection on it".

The Agent, having discussed the matter with her Supervisor, then advised the Complainant, as follows:

"... So we can't give you full no claims protection if you already, if you have, if you've had a claim in the last three years. Ok? The only level of protection we'd be able to offer would be step-back because of the claim on the policy ... So that's just the reason why that was cancelled cause it was set up on full but it should have been set up on step back, not full".

I note that the Provider has acknowledged from the outset that it incorrectly recorded details of the claim the Complainant disclosed to it on 12 July 2018, which is the event that gave rise to this complaint. Administrative errors of this nature are unsatisfactory and can cause much confusion and frustration, as it has done in this instance.

In its correspondence dated 2 February 2019, the Provider confirmed to the Complainant that, for the next 4 years, in the event of a claim causing the no claims bonus to be stepped back, it would cover the premium difference between the amount it should be if there had not been a claim, and the new adjusted premium post-claim. In addition, it confirmed that it would also cover the difference in premium between having a policy with a previous claim recorded and a policy with no claim recorded, for the next four years.

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This of course ties the Complainant to that relationship for a four year period, when in other circumstances she might have chosen to shop elsewhere. Be that as it may, this is the redress she sought and which I understand the Provider has since applied, and will continue to apply to the Complainant's policy for that remaining time.

Nevertheless, I consider it fitting in the circumstances, that the Provider also make an additional compensatory payment to the Complainant for the inconvenience caused by its poor customer service in this matter. As a result, I consider it appropriate to direct the Provider to pay the Complainant a compensatory payment in the amount of €750, to an account of her choosing, in order to conclude.

Conclusion

- My Decision pursuant to **Section 60(1)** of the **Financial Services and Pensions Ombudsman Act 2017**, is that this complaint is upheld on the grounds prescribed in **Section 60(2)f and 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 €750, 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
DEPUTY FINANCIAL SERVICES AND PENSIONS OMBUDSMAN

23 July 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.

