



<u>Decision Ref:</u>	2021-0287
<u>Sector:</u>	Insurance
<u>Product / Service:</u>	Car
<u>Conduct(s) complained of:</u>	No claim bonus issues
<u>Outcome:</u>	Rejected

LEGALLY BINDING DECISION OF THE FINANCIAL SERVICES AND PENSIONS OMBUDSMAN

The complaint concerns a motor insurance policy.

The Complainant's Case

The Complainant explains that he purchased car insurance from the Provider online in **November 2019**, “disclosing true declaration of 0 year No claim bonus and less 1 year named driver experience.” The Complainant says that although he has a one year no claims bonus, which is a qualified bonus, he received a letter from the Provider refusing his no claims bonus certificate. The Complainant refers to the following passage from the Provider’s communication:

“Unfortunately we cannot accept this as it is out of date due to being in use for over two years. As a result of this we have removed the discount originally applied to your policy and an extra premium of €944.45 due.”

The Complainant states that:

“I am totally disputing the fact raised by the insurer, there is no defining law included, not included advisory and independent opinion appeal to the ombudsman not mentioned in this letter.”

The Complainant states that another important factor is that “when I go through the online declaration no specific clarification of no claim bonus certificate included at that time of purchase.”

The Complainant explains that he has driven a car in Ireland since **2010** and, at that time, he had named driving experience of approximately one year. The Complainant says he then had a car insurance policy with another insurer arranged through a broker for the period **February 2016 to February 2017**. Since then, the Complainant says: *"I didn't drive permanently but occasionally between 2017-2019 November"*. The Complainant further advises that he drove a hire car and was covered by the insurance in place in respect of the hire car.

The Complainant states that he has not had any accidents or claims while driving in Ireland. Following this, the Complainant states that:

"According the insurance term: The no claim valid for two years in my case: [Insurer] certificate issued period of cover 2016 feb — 2017 feb Valid no claim for first year 2017 feb — 2018 feb Valid no claim for second year 2018 feb — 2019 feb"

The Complainant explains that he decided to purchase a car in **2019** and that he purchased car insurance with the Provider on the basis of a zero year no claims bonus and one year of named driver experience. The Complainant states that:

"There is no such law in place to declining no claim bonus by the insurer while not declared to them of letigimation and increasing the insurance fee at the time of purchased agreed on line terms and conditions insurer is now a breach of terms and conditions and requesting unlawful fees."

The Complainant further states that:

"[I]t is clear [the Provider] would like to charge me unlawfully additional fee without a adequate reasons, threatening legal action/or policy invalid. the insurer has seriously now caused unreasonable stress, misleading, and breach of their [terms] and conditions, therefore the compensation in your opinion and [discretion] should apply in this case."

The Provider's Case

The Provider states that the Complainant obtained an online quotation in respect of a motor insurance policy on **4 November 2019** which commenced on **7 November 2019**. The Provider says the Complainant cancelled the policy on **23 June 2020**.

The Provider advises that the fee for the policy proposed was €681.16 and was based on one year's no claims bonus discount. The Provider says it received payment of €681.16 in full, when the policy was incepted. The Provider states that it removed the no claims discount when it was noted that the bonus was expired. The Provider advises that an additional premium of €944.45 was then added to the Complainant's policy but it did not receive any further payments from the Complainant in respect of the policy.

The following passage is contained in the Final Response letter dated **19 December 2019**:

“When sending us your no claims bonus discount, remember:

- *the end date of your no claims bonus discount period must be within the last two years;”*

Commenting on the above passage, the Provider states that this is an industry standard process which it uses. The Provider says this is required to accommodate underwriting and risk acceptance criteria and is in line with market practice. The Provider says it is clearly detailed within its online application process that the no claims bonus must be obtained within the last two years. In this respect, the Provider refers to a text box that appears on its online application regarding the requirement for proof of no claims discount.

The Provider submits that it was fair to the Complainant by not cancelling his policy when the no claims bonus was not supplied. Instead, the Provider says it continued to provide cover and requested an additional fee.

In order to obtain a quote on its website, the Provider says it is necessary to confirm that the policy terms and conditions have been read and accepted. In this respect, the Provider refers to the confirmation request that appears on its online application portal.

The Provider refers to the ‘FAQs’ [Frequently Asked Questions] associated with the no claims discount section of the online application and the information provided regarding no claims discounts.

The Provider says the Complainant’s policy was obtained with a one year no claims bonus. The Provider says this was mentioned in its cover letter to the Complainant on **7 November 2019**, where the Provider requested evidence of the Complainant’s no claims bonus and for the Complainant to check that the information included was correct. The Provider has cited a number of passages from this letter. The Provider also refers to the second page of this letter regarding its request to provide proof of the Complainant’s no claims bonus.

Within the proposal form section of the policy documents, the Provider says it highlights that a policy may not be valid if the information provided is incorrect.

On the online application form in the driving history section, the Provider says it is explained that a no claims discount is the number of consecutive years a person has held a policy in their own name as advised by their last insurer.

Prior to clicking the ‘Get Quote’ box, the Provider says there are boxes to tick confirming agreement to the terms and conditions, and if a customer does not tick that they have read and accepted the terms and conditions, then the Provider cannot provide a quote.

/Cont’d...

The Provider says under the terms and conditions link it states that:

“We can only accept your discount if it has been earned on a private motor or commercial vehicle policy, within Ireland, UK, all EU countries, USA, Canada, Australia or New Zealand in the past two years. The discount can only be used on one policy at any one time.”

The Provider says it explains on two separate occasions during the online application process, that the no claims discount should be received within the last two years: in (i) the driving history section and (ii) also under the terms and conditions.

As the Complainant ticked the terms and conditions box prior to obtaining a quotation, the Provider says it was under the assumption that the terms and conditions had been viewed and read. The Provider further states that it is compulsory to complete the driving history section of the online application even if someone holds zero years no claims discount. When this is clicked, the Provider says a pop-out showing the acceptance criteria is clear and visible to be viewed and for the criteria to be addressed.

The Provider says the definition of no claims discount was also covered in its correspondence dated **14 November** and **28 November 2019** where the Provider requested proof of the Complainant’s no claims bonus. The Provider says it wrote to the Complainant on **11 December 2019** advising that it could not accept the no claims discount submitted by him, as it was more than two years old. The Provider says this letter also advised of the additional premium he owed.

The Provider says a full explanation of its acceptance criteria was also included in the Final Response letters dated **19 December 2019** and **15 January 2020**.

On **4 December 2019**, the Provider says the Complainant sent an email with a copy of his one year no claims bonus. The Provider states that this document had been issued on **9 January 2017** and the Complainant’s renewal date was **9 February 2017**. Accordingly, the Provider says that, under the terms of its acceptance criteria, it would award a no claims discount, only up to **9 February 2019**. However, as the Complainant’s policy was inceptioned on **7 November 2019**, the documentation received from the Complainant did not satisfy the acceptance criteria.

The Provider says the original premium of €681.18 was based on the information provided by the Complainant when he completed the online application form. When it was discovered the documentation provided by the Complainant differed from information contained on the application form, the Provider says it applied an additional premium. The Provider says this was not an unlawful fee as it was relative to the risk it accepted. The Provider says the additional premium included the increased base premium and the removal of the no claims discount that was originally provided.

The Provider says that when the Complainant’s policy documents were issued on **7 November 2019**, it included a premium breakdown which included a no claims bonus discount.

/Cont’d...

	Optional Covers Y/N	% Discount Charge	€ Discount/Charge	Subtotal
Base Premium				€1159.56
Discounts				
Less - no claims bonus discount		-39.00	€-452.23	€707.33
Less - Internet discount*		-10.00	€70.73	€636.60
Subtotal				€636.60
Charges				
Plus - statutory charges*		7.00	€44.56	€681.16
Total Premium				€681.16

The Provider says that in an email to the Complainant on **23 June 2020**, it provided a reviewed premium based on the additional information. The Provider says the risk with the zero no claims bonus differed from the details provided and this increased the annual premium as follows:-

	Optional Covers Y/N	% Discount Charge	€ Discount/Charge	Subtotal
Base Premium				€1669.73
Discounts				
Less - Internet discount*			-€150	€1,519.73
Subtotal				€1,519.73
Charges				
Plus – Statutory Charges***		7%	€106.38	€1626.11
Total Premium				€1626.11

* Internet discount is subject to either a maximum discount of 10% / €150.00 of the overall policy premium, whichever is lower.

The Provider says the Complainant's policy included a one year no claims discount until it was removed roughly on **11 December 2019** as the Provider was in receipt of what was an expired no claims bonus. From then, the Provider says when the Complainant logged-in to his online policy he would see the no claims bonus as zero years and not the one year no claims bonus that had been available prior to this.

In addition to the correspondence issued to the Complainant in **November 2019**, the Provider says the Complainant telephoned its call centre on **20 November 2019** and queried the expiry of his no claims bonus. The Provider says its agent explained that if the bonus was expired then it would be removed from the system and that the premium would increase.

/Cont'd...

The Provider says it regrets that the Complainant is unhappy with its application process, however the Provider believes that both its website and policy documents are very clear regarding its discounts process and the acceptance criteria. The Provider says it also clearly details any exclusions that apply, which include the no claims bonus not being obtained within the last 24 months.

The Provider says its digital team has reviewed its systems to ensure there were no errors on its application journey on **4 November 2019** when the Complainant applied for his quotation. Alternatively, to ensure that there were no system errors, the Provider says it reviewed all of its policies incepted with a one year no claims bonus on that day and that none of the other policies were ceased based on the absence of a one year no claims bonus certificate, except for the Complainant's policy.

The Provider says that these further measures reassure it that no errors occurred within its system and that in fact the relevant information was included during the application process.

The Provider says it is satisfied that it afforded the Complainant with more than reasonable time to either cancel his policy or pay the additional premium owed. The Provider submits that its action throughout the Complainant's policy were fair and reasonable and its correspondence was considerate and clear.

The Provider says it is satisfied that throughout the phone calls received from the Complainant from **7 November 2019** that he received a high level of customer service at all times, and all of his queries were addressed and any requests were actioned promptly. The Provider considers that it has been more than generous on all occasions throughout its dealings with the Complainant. The Provider states that some examples include:

- On **20 November 2019** when the Complainant spoke to its call centre agent, its agent explained that when the Complainant provided the information to the Provider, the Provider would review it and the Complainant could consider his options to either cancel the policy or pay the additional premium.
- When the Provider discovered the no claims discount was more than two years old, instead of cancelling the policy, the Provider says it wrote to the Complainant on **11 December 2019** and provided him with the opportunity of paying the additional premium.
- When the Final Response letter issued on **15 December 2019**, the Provider says it included three different options for the Complainant.
- In the additional Final Response letter dated **15 January 2020**, the Provider says it provided the Complainant with the option to cancel the policy before **20 January 2020** and that the Provider would only charge him for his time on cover based on the original premium of €681.16 and would waive any cancellation fees.

- On **23 June 2020**, the Provider says it emailed the Complainant offering to waive the cancellation fee and additional time on cover if he chose to cancel the policy prior to the cancellation date on **24 June 2020**.
- The Provider says not only did it waive the time of cover cost of €336.00 but this also prevented the Complainant from holding a cancelled insurance policy. The Provider advises that by having a cancelled insurance policy, it may prove difficult to obtain another insurance policy.
- On **23 June 2020**, the Provider says it also offered a payment plan to pay a reduced amount over four months.

The Provider says that by only charging for his days on cover, this reduced the Complainant's rates and provided a cost saving.

From its initial Final Response letter, the Provider says it extended the cancellation date from **23 December 2019** to **6 January 2020** to provide the Complainant with sufficient time to decide if he wished to continue the policy and pay the additional premium owed, or to cancel the policy. The Provider says it continued to extend the cancellation date until **24 June 2020** when the Complainant cancelled the policy.

The Provider has also provided a 16 page timeline of events as part of its Complaint Response.

The Complaint for Adjudication

The complaint is that the Provider was unfair in its dealings with the Complainant because it misled him, wrongfully charged him an additional premium and breached the terms and conditions of his insurance 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.

/Cont'd...

A Preliminary Decision was issued to the parties on **29 July 2021**, 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.

Online Quotation

I note that the Complainant completed an online application for a motor insurance quotation on **4 November 2019**. At the 'Your driving history' section of the online application, the Complainant was asked to insert the number of years no claims discount he had accumulated. The Provider has provided a screenshot of the information displayed when completing this part of the application:

"You will need to send us proof of your No Claims Discount within 14 days.

No claims discount:

- *The number of consecutive years you have held a policy in your own name as advised by your last insurer.*
- *Can only be used on one policy at any one time hence if you hold another active policy you cannot use your No Claims Discount on this policy*

Please see our FAQs if your last policy was a Private Motor or Commercial Vehicle policy held:

- *outside of the Republic of Ireland*
- *month than 24 months ago"*

The Provider has also provided the following screenshot of the relevant FAQs (Frequently Asked Questions) section, which states, as follows:

"HOW DO I AVAIL OF MY NO CLAIMS BONUS (DISCOUNT)?

CAR, VAN OR MOTORCYCLE

How do I avail of my No Claims Bonus (Discount)?

A no claims bonus (or no claims discount) is a discount which you earn by holding a policy in your own name without any claims.

- It builds up in years, so the more years you drive without any claims, the bigger your discount will be, up to a limit of nine years.

- Your no claims discount must have been earned on a policy within the past 24 months. To clarify you must have held a policy in your name with your no claims bonus obtained within the past 24 months."

[Underlining added for emphasis]

When the application form is completed, in order to retrieve a quotation, it is necessary to click the 'Get Quote' button. However, before this button can be clicked it is necessary to check/tick a box indicating acceptance of the Provider's terms and conditions. The information displayed at this box states, as follows:

"Please tick to confirm that you and anyone named under this quote have read and accepted our assumptions, terms and conditions, General Data Protection Notice and you have obtained their permissions to provide their personal data for this quote."

[underlining added for emphasis]

The underlined terms from the above passage contain hyperlinks which, if clicked, direct a person to the relevant assumptions, terms and conditions or General Data Protection Notice documents. The Provider has provided the following screenshot of the first paragraph that appears when the terms and conditions hyperlink is clicked:

"Terms & Conditions

We can only accept your discount if it has been earned on a private motor or commercial vehicle policy, within Ireland, UK, all EU countries, USA, Canada, Australia or New Zealand in the past two years. The discount can only be used on one policy at any one time."

[Underlining added for emphasis]

Correspondence

The Complainant telephoned the Provider on **8 November 2019** enquiring as to when he would receive an acknowledgement of his insurance details from the Provider. The Provider's agent advised the Complainant that cover was in place since **7 November 2019** and that the Provider sends an insurance pack by post which usually takes 3/4 working days to arrive.

By letter dated **7 November 2019**, the Provider wrote to the Complainant enclosing his Certificate of Insurance, Insurance Disc and policy documents.

/Cont'd...

In this letter, the Complainant was advised in respect of the no claims bonus, as follows:

“Send us proof of no claims bonus

Your yearly premium is based on a no claims bonus discount of 1 year(s). If your discount is with another insurer, we need proof of your discount entitlement within 21 days to avoid the discount being removed and your yearly premium increasing. Details on how to send us this proof are on the back of this letter. [...].”

On the second page of this letter, the following information is given in respect of the no claims bonus:

“Send us proof of your no claims bonus

When sending us your no claims bonus discount, remember:

- *the end date of your no claims discount period must be within the last two years;*
- *[...].”*

[underlining added for emphasis]

The premium breakdown summary enclosed with this letter stated that a 39% discount of €452.23 was being applied to the Complainant’s premium in respect of his no claims bonus discount.

The proposal form accompanying this letter stated that the Complainant had a one year no claims bonus discount and zero years named driving discount. I note that this information was also recorded on the Complainant’s insurance schedule, which accompanied this letter.

The Provider wrote to the Complainant on **14 November 2019** advising that it had not received proof of the Complainant’s no claims bonus, as follows:

“Unfortunately we have not received the following:

We must receive the following by 12 December 2019; otherwise the discount will be removed and your premium will increase.

Proof of discount

When sending us your no claims bonus discount, remember:

- *the end date of your no claims bonus discount period must be within the last two years;*
- *[...].”*

I note that the Complainant telephoned the Provider on **20 November 2019** and explained that he received a letter that day asking him to send proof of his no claims discount. The Complainant told the Provider’s agent that he had insurance within the previous two years and proceeded to explain the details of his no claims bonus to the Provider’s agent.

/Cont’d...

I note that the Provider's agent advised that the no claims bonus discount must have been within the previous two years and advised the Complainant that he would have to send the no claims bonus documentation to the Provider to review. Based on information provided by the Complainant, the Provider's agent indicated that the Complainant's no claims bonus would have expired.

Later in the conversation, the Complainant explained that:

"When I was doing the insurance online they didn't say anything, all they say within two years which is, I have insurance run out 2017, so I am actually within the two years."

In response to this, the Provider's agent said *"there is a drop down on the internet and on the forms we issue you out"* in respect of the no claims bonus. Although the Complainant's discount form was dated February 2017, and he proposed online for insurance in November 2019, it appears that he did not understand that more than two years had passed, since the expiry of his previous policy, which he advised the Provider's agent was on **9 February 2017**.

The Provider's agent explained that from **February 2017 to February 2018** was one year and from **February 2018 to February 2019** was a second year, meaning his no claims bonus had expired. The Provider's agent advised the Complainant to send his documentation and the Provider could review it. The Provider's agent advised the Complainant that it seemed to her that the no claims bonus had expired and the Provider would not give the Complainant the relevant discount, as a result of which the policy premium would increase.

The Complainant told the Provider's agent that he had already paid the premium, to which the Provider's agent responded that the Complainant had *"hit terms and conditions and you've clearly ticked the box"*. The Complainant then said: *"I have ticked everything, you can check it"*. Following this, the Complainant said that:

"They were asking the questions but specifically it doesn't say whether it is within two years have you driven the vehicle in Ireland"

The Provider's agent referred the Complainant to the no claims bonus section of the online application and said that if the Complainant hit it, it drops down a list of the terms of what the Provider accepts. In response to this, the Complainant said:

"I haven't read the terms, I haven't read the terms. All I went is in general form all they are asking have you driven a vehicle in Ireland? I said yes."

The Complainant emailed the Provider on **21 November 2019** attaching proof of his named driving experience and own driving experience. In the subject line of the email, I note that the Complainant has inserted an incorrect letter in respect of his policy number, inserting a 'B' instead of a 'P'.

/Cont'd...

In this email, the Complainant stated, as follows:

“Please note, I have fill the quote form according to the form instructions, the declarations were matched according to the questionnaire, I have now send the attachments details of

1. *Driving in Ireland with another policy (Named Driver)*
2. *Driving in Ireland on my own policy.*

I have driven a car in Ireland number of years I am sure these will satisfy for the no claim bonus in your query [...].”

One of the documents attached to this email was a ‘CERTIFICATE OF NO CLAIMS DISCOUNT’ from another insurer. This certificate has an issue date of **9 January 2017** and a renewal date of **9 February 2017**. In respect of the Complainant’s no claims bonus, the certificate stated as follows:

“The actual number of years claims free on this policy is:- 1”

In respect of the documentation regarding the Complainant’s named driving experience, this document indicated that the Complainant was a named driver under a motor insurance policy which had been valid for the period **23 July 2010** to **17 June 2011**.

The Provider emailed the Complainant on **25 November 2019** advising that the policy number provided on the above email appeared to be incorrect and asked that the Complainant confirm the correct policy number. This email does not appear to have been responded to. The Provider wrote to the Complainant again on **28 November 2019** in identical terms to its letter of **14 November 2019**.

The Complainant telephoned the Provider on **4 December 2019** and explained that he was asked to send proof of his no claims bonus. The Complainant told the Provider’s agent that he sent the relevant information on **21 November 2019** by email. The Complainant said he did not receive an acknowledgement in respect of his email but received a further letter requesting proof of his no claims discount, on **28 November 2019**. The Provider’s agent advised the Complainant that when he sent his email, he quoted the incorrect policy number and that the Provider had emailed him in respect of this. The Complainant appeared to have been unaware of this email and that the policy number he quoted was incorrect.

By letter dated **11 December 2019**, the Provider wrote to the Complainant to acknowledge receipt of his proof of no claims bonus and advised that the Provider could not accept the documentation supplied, because it was out of date:

“Thank you for sending us proof of your no claims bonus.

Unfortunately, we cannot accept this as it is out of date due to not being in use for over two years. As a result of this we have removed the discount originally applied to your policy and an extra premium of €944.95 is due. [...].”

/Cont’d...

By email dated **15 December 2019**, the Complainant wrote to the Provider, as follows:

*"I have now raised the issues with Financial Ombudsman, today 15th of February 2019 Sunday, it is advised to restrained all your actions Below listed
1) No claim certificate clarification
2) your unlawful requirement for further additional payment,
3) Policy cancellation on 23/12/2019. [...]."*

The Complainant telephoned the Provider on **16 December 2019** in respect of the Provider's letter of **11 December 2019** and his email of **15 December 2019**, which were discussed by the parties.

I note that the Provider treated the above email as a formal complaint and issued a Final Response to the Complainant by email dated **19 December 2019**.

In an email to the Provider dated **20 December 2019**, the Complainant stated, as follows:

*"Please find the attached details copy from my on line profile at that time of my declaration about the **no claims bonus**, my details on profile [Provider] insurance not tally with your Copy mentioned, I believe I have declared on line as one year driver experience, Can you please make sure, and verify details
Of the difference between "Driver Experience" and "No claim Bonus". [...]."*

The Provider issued a formal response to this email on **15 January 2020**. In this email, the Provider advised that the information the Complainant was viewing on his online profile was his current policy details (which was a zero no claims discount) and not the information which had been inputted when cover commenced in **November 2019**. The Provider also inserted an extract from the proposal form in respect of the Complainant's no claims bonus and named driver experience and attached a copy of the proposal form.

Analysis

In a submission dated **10 September 2020**, the Complainant states at paragraph 5 that the proposal form was missing from the policy pack issued by the Provider. By letter dated **7 November 2019**, I note that the Provider wrote to the Complainant enclosing certain documentation relating to his policy, which was to include the Complainant's proposal form. In this letter, it is stated that:

"Check all documents

It is important that you check the enclosed documents carefully and keep them in a safe place. The proposal form is the basis of your contract with us and any incorrect information could mean that your policy is not valid and claims may not be paid. If there are any changes needed, circle the information to be changed and write the correct information on the form. You must then sign and date the form and return it to us within 14 days."

/Cont'd...

As can be seen, express reference is made to the proposal form, and the need to review this form and to advise the Provider (within 14 days) if any changes were required. During a telephone conversation on **8 November 2019**, the Complainant was advised that he would receive his insurance pack in approximately 3/4 working days. In the Complainant's submission dated **10 September 2020**, he states that the policy pack arrived approximately 14 days late.

The Complainant telephoned the Provider on **15 November** and **20 November 2019**, however, he did not mention that he had yet to receive his policy pack despite being advised on **8 November 2019** that it should arrive within 3/4 working days. I also note that telephone conversations took place between the Complainant and the Provider in **December 2019** and **January 2020**. However, the Complainant does not appear to have mentioned that the proposal form was missing from the policy pack during these conversations. Further to this, the Complainant was provided with a copy of the proposal form by email dated **15 January 2020**, but the Complainant does not appear to have raised the issue of not receiving the proposal form prior to this email.

It appears that it was not until a telephone conversation on **12 June 2020** that the Complainant first informed the Provider's agent that he had not received the proposal form. In respect of this conversation, I note that the Complainant stated that he kept his documentation in his file and that he could not see the proposal form in his file. Later in the conversation, the Complainant advised the Provider's agent that he had received a document entitled 'Your private vehicle proposal form', which I note is the proposal form.

I am satisfied that the Complainant should reasonably have been aware that a proposal form was to be included with the letter of **7 November 2019**. If this form was missing, I do not consider it reasonable for the Complainant to have waited until **June 2020** (more than seven months) to raise the issue of not receiving the proposal form. Further to this, I do not accept that because it was not in the Complainant's personal file, that this means it was not enclosed with the Provider's letter of **7 November 2019**. Therefore, having considered the evidence, I am satisfied that the proposal form is likely to have been enclosed with the letter of **7 November 2019**.

In any event, I note that the Complainant's policy schedule contains the same information regarding his no claims discount and named driver experience, as the proposal form. Accordingly, if it were the case that the proposal form was not received, the Complainant was likely to have been aware of the information in respect of this aspect of his driving history and on which his quotation was based when the letter of **7 November 2019** was received.

In his Complaint Form, the Complainant states that he completed the Provider's online application "*disclosing true declaration of 0 year No claim bonus and less 1 year named driver experience.*" However, the evidence shows that as part of the Complainant's quotation, the information recorded in respect of the Complainant's driving experience was one years no claims discount and zero years named driving experience.

/Cont'd...

As noted above, both the proposal form and the policy schedule record the Complainant's driving history as one years no claims discount and zero years named driving experience. Further to this, the premium breakdown summary stated that a no claims bonus discount was being applied by the Provider as part of the Complainant's premium calculation. In addition, I note that the Provider's letters of **7 November** and **14 November 2019** specifically requested proof of the Complainant's no claims discount and I also note that the telephone conversation on **20 November 2019** primarily discussed the Complainant's no claims discount.

Furthermore, the documentation furnished by the Complainant on **21 November 2019**, although containing evidence of named driving experience, was provided by the Complainant for the purpose of complying with the Provider's no claims discount requirements and does not appear to have been furnished by the Complainant in respect of his named driving experience. In the Provider's letter of **11 December 2019**, the Provider specifically referenced the Complainant's no claims discount and that it could not accept the proof provided in respect of this. This was followed by further communications between the Complainant and the Provider; however, the Complainant did not indicate that the information regarding his no claims discount and named driver experience was incorrect. In particular, there is no evidence to suggest that the Complainant did not intend to provide details or information in respect of his no claims discount as part of the application process or that it was his actual intention to provide details of his named driving experience.

In an email to the Provider on **20 December 2019**, the Complainant expressed the view that the details found on his online profile in respect of his previous driving experience did not tally with the information in the Provider's email of **19 December 2019**. I note that the online profile attachment provided by the Complainant showed zero years no claims discount and 'Less than 1 year' named driving experience.

It appears that once the Complainant was unable to comply with the Provider's no claims discount requirements, the Complainant's policy details were updated to reflect the fact that he had zero years no claims discount and less than one year of named driving experience. If it were the case that the Complainant did not meet the Provider's no claims discount requirements (which I will discuss below), I am satisfied that the Provider was entitled to adjust the Complainant's policy details to reflect his valid driving experience for the purpose of providing an accurate insurance quotation. I also note that the Provider's correspondence advised that if proof of no claims discount was not provided, this discount would be removed from the Complainant's policy. In respect of the adjustments to the Complainant's profile, I note that the Provider explained in its email of **15 January 2020** that the information displayed on the Complainant's profile was his current driving information and not the information provided in **November 2019**.

As noted above, the Complainant provided certain evidence of named driving experience from **2010/2011**, which appears to have been for approximately 11 months. However, the following statement in the Provider's email of **19 December 2019** would suggest that the Provider may not have fully considered this information when providing the Complainant with a revised quotation:

/Cont'd...

“We note you also sent us documentation for a [named individual] in relation to an insurance policy that he had in place in his own name in 2010; which was not relevant to your policy.”

However, as the evidence provided by the Complainant in respect of his named driving experience showed that his named driving experience was less than one year, I am satisfied that the reference to the Complainant as having less than one year’s named driving experience on his online profile is accurate.

In the Complainant’s email of **20 December 2019**, he states that *“I believe I have declared on line as one year driver experience”*. During the telephone conversation on **12 June 2020**, the Complainant advised the Provider’s agent that he made a mistake when completing the online application and that he meant to input details of his named driving experience. During a telephone conversation on **16 June 2020**, the Complainant stated that:

“I declared a year’s experience driving of car in Ireland [...] somehow you have the message as I have a year no claims bonus. This is the very crucial argument we are going through”

In the Complainant’s submission dated **10 September 2020**, he states that:

“5. [...] It wasn’t clear to me what was said certainly there was error was occurred when I enter the no claims bonus, and I could not figure out, After the filling of all questions [the Provider’s] on line form have not Shawn summary of input to final review and sign the completing form Instead went straight to payment section to proceed payment.”

In the above passage, the Complainant states that he did *“enter the no claims bonus”*. However, the Complainant also states that an error occurred. If an error occurred and if it was the case that the Complainant did not intend to input those details in respect of a no claims bonus, I would expect the Complainant to have stopped his application at that point and not proceed to make the payment.

Furthermore, if the Complainant did indeed experience a technical error or if he mistakenly provided no claims discount information instead of named driving experience, it is reasonable to expect the Complainant to have almost immediately brought this to the Provider’s attention or to have informed the Provider that the quotation was based on incorrect driving history information. However, the Complainant spoke to and corresponded with the Provider a number of times during **November** and **December 2019** and never sought to inform the Provider that he experienced an error when completing his online application.

Further to this, I accept that because the Complainant advised the Provider on **20 December 2019** that he believed he had declared one year’s driving experience on the online application, this is sufficient to support a position that he intended to provide such details when proposing for cover, or that he did in fact provide such details.

/Cont’d...

Taking account of the correspondence exchanged between the parties during **November** and **December 2019** and the telephone conversations which also took place during this time, it does not appear to me that the Complainant informed the Provider that the information he provided during his online application was incorrect, or that he wanted to correct the information contained on his application form.

Therefore, it is my opinion that the evidence demonstrates that it was either the Complainant's intention to apply for, or at the very least, he was aware that he was applying for, insurance based on one year of no claims discount driving experience.

In the circumstances of this complaint, I am satisfied that the Complainant was aware or ought to reasonably have been aware that his quotation was based on a one year of no claims discount. When applying for insurance cover based on no claims driving experience, I note that the Provider has certain requirements that must be satisfied before a no claims driving discount can be applied to a policy. In this instance, the no claims driving experience needed, was required to have been within two years of the date of the Complainant's online application.

Having considered the evidence, I am not satisfied that there were any significant errors on the Provider's online application platform when the Complainant completed his application in **November 2019**. Proceeding on this basis, I note that the Provider has supplied evidence that at the '**Your driving history**' section of the online application platform, an information box is displayed advising that proof of no claims discount must be provided within 14 days. This box also advises that if the no claims driving experience was more than 24 months ago, to see the Provider's FAQs, which advises, in part, that a no claims bonus must have been earned on a policy within the past 24 months.

The Provider's evidence is that in order to retrieve an online quotation, an applicant must accept certain terms and conditions. The Provider also states that a link to the relevant terms and conditions are provided at this stage of the application process. These terms and conditions, in essence, repeat the information in respect of the requirement that a no claims discount must be earned within the past two years.

In this respect, I note that during the telephone conversation on **20 November 2019**, the Complainant appears to have indicated to the Provider's agent that he ticked the relevant box regarding having read and having been satisfied to accept the terms and conditions, although he did not in fact read them. I do not believe that the Provider can be criticised for the Complainant's failure to read those the terms and conditions, whilst indicating that he had.

The requirement for proof of the Complainant's no claims discount was requested by the Provider on **7 November** and **14 November 2019**. Further to this, these letters clearly indicated that to be valid, the no claims discount must have been obtained within the previous 24 months. I note that this was also explained to the Complainant during the telephone conversation on **20 November 2019**.

/Cont'd...

The Complainant provided proof of his no claims discount by email on **21 November 2019**. On considering the documentation provided, I note that the Complainant's 'CERTIFICATE OF NO CLAIMS DISCOUNT' has an issue date of **9 January 2017** and a renewal date of **9 February 2017**. I further note from the evidence, that the Complainant completed his online application with the Provider at the beginning of **November 2019**. This was 34 months after the issue date of the above certificate and 33 months after the renewal date, which is outside of the 24 month timeframe required by the Provider. In light of this, the Provider wrote to the Complainant on **11 December 2019** to explain that it could not accept the documentation provided as proof of a valid no claims bonus, because the no claims discount earned by the Complainant was out of date, due to not being in use for over two years. This was followed by further communications between the parties in respect of the no claims bonus.

It is my opinion that the Provider, in offering a no claims bonus discount on the premium payable, was entitled to require that certain conditions be met in order to avail of this discount. In the context of the present complaint, it was a requirement that a no claims discount must have been earned in the previous 24 months. Based on the evidence, I am satisfied that at the time of completing the online application, the Complainant was presented with sufficient information, in plain language, in respect of the Provider's no claims discount requirements.

I am also satisfied that the Complainant was clearly directed to where further information could be found in terms of the FAQs and the terms and conditions. Further to this, I am satisfied that the correspondence issued to the Complainant in **November** and **December 2019** clearly explained the Provider's no claims discount requirements, which was also explained to the Complainant during a number of telephone conversations with the Provider's agents. I am also satisfied that based on the information provided to the Complainant, the Provider made reasonable efforts to make him aware that if he did not satisfy the relevant requirements in respect of the no claims discount, he could not avail of this discount and it would be removed from his policy.

Having considered the evidence, it is my opinion that the Complainant was not in a position to satisfy the Provider's no claims discount requirements. Accordingly, I am satisfied that the Provider was entitled to remove this discount from the Complainant's policy and charge the appropriate additional premium by reference to the applicable base premium and the Complainant's zero years no claims driving experience together with any discounts the Complainant was entitled to. Further to this, I am satisfied that the Provider did not mislead the Complainant and I am satisfied that the Provider did not breach the terms and conditions of the Complainant's insurance policy.

In reviewing the evidence available, I am conscious of the efforts made by the Provider to be fair to the Complainant, details of which are outlined above just before the heading "The Complaint for Adjudication".

I am very mindful of the significant efforts which the Provider went to, to give the Complainant the opportunity to either pay the outstanding premium which was payable for cover on the basis of the correct information, or alternatively, to cancel the policy so that he would not run the risk of having the policy voided. I welcome those efforts on the Provider's part.

I note that, as a result, the Complainant continued to hold the policy in place between November 2019 and June 2020, without paying any additional premium, although the "time on cover" cost, which remains unpaid, has been confirmed by the Provider at €336. I note that ultimately, the Complainant elected to cancel the policy on a voluntary basis, thereby ensuring that he did not prejudice his insurance history by having the policy voided on the basis that it had come into being on the basis of incorrect information. In my opinion therefore, contrary to the Complainant having been treated unfairly, in my opinion, the Provider has been more than fair to the Complainant throughout the relevant period.

Therefore, I do not consider it appropriate to uphold any aspect of this complaint.

Conclusion

My Decision pursuant to **Section 60(1)** of the **Financial Services and Pensions Ombudsman Act 2017**, is that this complaint is 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
DEPUTY FINANCIAL SERVICES AND PENSIONS OMBUDSMAN**

23 August 2021

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.