



<u>Decision Ref:</u>	2021-0352
<u>Sector:</u>	Insurance
<u>Product / Service:</u>	Pet Insurance
<u>Conduct(s) complained of:</u>	Lapse/cancellation of policy Refusal to insure - failure to renew policy
<u>Outcome:</u>	Rejected

LEGALLY BINDING DECISION OF THE FINANCIAL SERVICES AND PENSIONS OMBUDSMAN

The complaint concerns a pet insurance policy. The Complainant held pet insurance policies in respect of her dog with an insurer (“Entity A”) for several years.

At a certain point, Entity A ceased offering pet insurance. During **February 2017**, the respondent Provider, through an insurance intermediary (“the Insurance Intermediary”) offered to insure the Complainant’s dog and issued a pet insurance quotation to the Complainant. This policy was to be underwritten by the Provider, with cover to commence in **March 2017**.

In **May 2017**, the Complainant’s complaint was received by this Office.

In or about **March 2018**, it appears the Provider was notified by its home state regulator that it was to cease writing new business and cease renewing existing business. Liquidators on behalf of the Provider filed a petition for bankruptcy in a EU country where it was registered. It was declared bankrupt on **8 May 2018**.

It is the events during the previous year however, in the period **February-May 2017**, which give rise to this complaint.

The Complainant's Case

The Complainant says she had continuous pet insurance for a number of years with Entity A, but that this insurer subsequently ceased insuring pets and its pet insurance clients were offered pet insurance by the Insurance Intermediary, on behalf of the Provider.

The Complainant explains that her insurance cover was in respect of her dog that, at the date of submitting her Complaint Form to this Office, was **nine years old**. The Complainant says that she paid the policy premium by direct debit and she mistakenly understood that, after Entity A ceased offering pet insurance, her policy and the direct debit would simply transfer to the new insurer, the Provider, through the Insurance Intermediary.

At the time of completing her Complaint Form, the Complainant said she had recently noticed that her bank account had not been debited for a premium payment during the previous **two months** and as a result, she contacted the Insurance Intermediary on **8 May 2017**. The Complainant says she was informed at that point that her policy had lapsed, because she had not responded to correspondence previously issued to her. The Complainant says that at that time, the Insurance Intermediary would not offer renewed cover to her, because her dog was more than **five years old**.

The Complainant says that she initially received documentation from Entity A to say that its pet insurance cover was being taken over by the Insurance Intermediary. Subsequent to this, the Complainant says she received correspondence from the Insurance Intermediary, but she says that

"I did not pay sufficient attention to and overlooked the need to submit my bank details again."

The Complainant explains that this was *"inadvertent on my part."* The Complainant says that she accepts that the requirement to re-submit bank details, was made clear in the correspondence to her. She says that she would not knowingly have made a decision not to renew her cover, because she had maintained cover for her dog, all along. The Complainant says her dog was **nine years old** and at that point, was effectively uninsurable because of age restrictions.

At the time of making her complaint, the Complainant submitted that:

"My case is that I am been treated unfairly by the insurers by their refusal to renew my cover at all – albeit with a 7 week gap – and are treating me effectively as a new subscriber and thereby disqualifying me from pet cover on their age grounds."

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The Complainant acknowledges that she mistakenly thought the policy would carry over through the Insurance Intermediary, and that she overlooked the detail of the correspondence sent to her. The Complainant states that efforts were also made to contact her on her home telephone, but she is at work during the day, and she did not notice any message, as she rarely accesses her landline message box.

Despite this, the Complainant submits that she is being treated harshly and that the Insurance Intermediary/Provider has acted in poor faith, as the company that took over the business of Entity A, with which the Complainant held cover for a number of years. The Complainant also states that it is worth noting that she has never made a claim under her policy.

At the time of making this complaint, the Complainant said that to resolve her complaint, she wished to have her pet insurance policy re-instated, as she would not be in a position to secure cover elsewhere.

The Provider's Case

The Insurance Intermediary submitted a Complaint Response on behalf of the Provider on **4 October 2017**. In the Complaint Response, the Insurance Intermediary confirmed that the Complainant's policy was administered by the Insurance Intermediary and was underwritten by the Provider. The Insurance Intermediary said that the Complainant contacted it on **8 May 2017** to renew the policy, which had been due for renewal on **18 March 2017**. The Insurance Intermediary said that it was unable to renew the policy at that point, as the policy had lapsed by **seven weeks**.

The Insurance Intermediary says it issued a renewal quotation on **17 February 2017** by post, and it also attempted telephone contact on **three occasions** regarding the policy renewal. The Insurance Intermediary supplied the following timeline:

17 February 2017	Renewal quotation sent
16 March 2017	Voicemail left regarding renewal
29 March 2017	Unsuccessful telephone contact regarding renewal
3 April 2017	Unsuccessful telephone contact
8 May 2017	Complainant contacted the Insurance Intermediary to renew policy
9 May 2017	Complaint submitted by the Complainant

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The Insurance Intermediary noted that the Complainant was unhappy that it did not renew her policy. However, the Insurance Intermediary said that it was unable to renew the policy, after it had lapsed by some **seven weeks**.

The Complaint for Adjudication

The complaint is that the Provider refused in **May 2017**, to renew the Complainant's pet insurance policy which had fallen due for renewal in **March 2017**.

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

I note that the Insurance Intermediary's records indicate that it attempted telephone contact with the Complainant, around the time of the renewal of her policy in **March 2017**. In this respect, the Complainant acknowledges in her Complaint Form that efforts were made to contact her by telephone.

The Insurance Intermediary's internal notes contain the following entry in respect of attempted telephone contact with the Complainant on **17 February 2017**:

"Call PH [policyholder] no ans. I called re confirming email address and pet details to send renewal quote. Posted renewal quote"

I note that by letter dated **17 February 2017**, that same day, the Insurance Intermediary wrote to the Complainant, as follows:

"I am writing to you with good news. As you are aware [redacted] has ceased offering Pet Insurance to its customers and they wrote to you previously to let you know that they would be passing your details to us, so we could offer you a Pet Insurance Policy.

The great news is that, [name of pet] does not have to go uninsured and regardless of his or her age and regardless of your claims status, we are guaranteeing you a policy to make sure that, should it be necessary, [name of pet] can get the best care possible.

We have reviewed your pet's age and claims status and based on the information which we have been provided with, we can offer to insure [name of pet] at a rate of €196.72 for the coming year.

You have the option to pay this either by card or by direct debit and [Insurance Intermediary] does not charge you to do either!!*

****Please contact us with your Credit Card or Direct debit details as we don't have these on file if you wish to renew.***

Please review the attached policy schedule for a full breakdown of your premium and pet details.

The policy will not be identical to the [previous] policy so please be sure to read

****Please contact us with your Credit Card or Direct debit details as we don't have these on file if you wish to renew.***

[...]

We sincerely hope that we can offer you great service but more importantly unbroken insurance for [name of pet]!

[...] "

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I note that the Policy Schedule enclosed with this letter stated that the policy start date was **18 March 2017**.

I see that on Thursday **16 March 2017**, one of the Insurance Intermediary's agents telephoned the Complainant. This call was unanswered and redirected the Insurance Intermediary's agent to the Complainant's answering service. The Insurance Intermediary's agent left a message for the Complainant, explaining that he was calling in respect of a renewal quote that previously issued to the Complainant. The Insurance Intermediary's agent invited the Complainant to telephone him, if she had any questions or if she would like to renew the policy.

I also note that the Insurance Intermediary's internal notes contain the following entry in respect of another attempted telephone contact with the Complainant, almost a fortnight later, on Wednesday, **29 March 2017**:

"Called PH re lapsed policy no answer call rang out"

A further entry was made in respect of another attempted telephone contact on Monday **3 April 2017**, as follows:

"No answer on final call"

It appears from the Insurance Intermediary's internal notes that the Complainant's renewal quote was considered lapsed, from Monday **24 April 2017**.

I note that the Complainant ultimately telephoned the Insurance Intermediary on Monday **8 May 2017** regarding her policy cover. During this conversation the Complainant explained she had mistakenly understood that her Entity A insurance cover *"just rolled over"*.

Further into the conversation, the Complainant referred to the Insurance Intermediary's letter and acknowledged that she was required to provide payment details to the Insurance Intermediary. The Complainant told the Insurance Intermediary's agent that she wanted to clarify whether she had cover in place and if not, she wanted to renew her policy. Shortly after this, the Complainant explained, referring to the Insurance Intermediary's letter, that she had overlooked the letter and she did not realise that she *"had to go back and do the whole thing again"*.

The Provider's agent then referred to the voice message left for the Complainant on **16 March 2017** and advised that two further attempts had been made to contact the Complainant by phone on **29 March** and **3 April 2017**.

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The Complainant enquired as to the phone number used by the Insurance Intermediary, which was then recited by the Insurance Intermediary's agent. It appears the call terminated unexpectedly at this point.

Following this, I note that the Complainant telephoned the Insurance Intermediary again and explained to its agent, that she had been speaking with another of the Insurance Intermediary's agents but got cut-off. The Complainant was then transferred to the agent with whom she had been speaking initially. Returning to the issue of the phone contact previously attempted by the Insurance Intermediary, the Complainant confirmed that the number dialled was indeed her landline and she explained that she would not pick up the call, as it was made to her landline.

The Complainant then explained that she would not have willingly let the policy of insurance lapse, having been insured for the previous **seven to eight years** for an ageing pet. The Complainant also made the point that the identity of the policy insurer/underwriter had previously changed before this, and that at that previous time, she did not recall *"having to renew effectively again and totally"*.

The Complainant told the Insurance Intermediary's agent that she wished to renew her policy. The Insurance Intermediary's agent informed the Complainant that this would not be possible because it had been *"so long since the renewal had passed"* and that the Insurance Intermediary had exhausted all methods of contact prior to this. The Insurance Intermediary's agent also advised the Complainant that the Insurance Intermediary did not provide quotations for pets over **five years of age**. The Complainant was subsequently transferred to a manager and discussed matters further.

I note that towards the end of this conversation, the manager told the Complainant that if she had contacted the Insurance Intermediary up to **two weeks** after the renewal date, the Insurance Intermediary would have been able to renew the cover, but at this was now **six weeks** after the renewal date, the Provider would not allow the Insurance Intermediary to renew the policy.

By email dated **8 May 2017**, the Complainant wrote to the Insurance Intermediary, as follows:

"I wish to lodge an appeal against a decision not to allow for a renewal of my pet insurance following transfer of business from [Entity A] to [Insurance Intermediary]. My policy has lapsed from mid-March 2017 to now. I had understood that my policy would transfer from [Entity A] and that direct debits would continue to be made from my account.

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I acknowledged that was an in-correct assumption as I did receive documentation which I did not pay sufficient attention to, which outlined the need for bank account details. This was inadvertent on my part. I would not knowingly make a decision not to re-new as I had maintained insurance for my pet all along – she is now 9 years old and effectively uninsurable because of age restrictions. I had reason to check my account recently for the pet insurance direct debit details and realised that no payments had been taken out in the last two months.

Further to a phone call today to your office I now find that you are refusing to renew my policy and in effect refusing me any insurance as my pet is over 5 years. I have had continuous pet insurance for 8 years. I will be without insurance for her into the future at a time when it is most needed. I would not have paid out in the region of €200 a year for the past number of years to knowingly put myself outside of insurance. You are applying unfair criteria in your treatment of this matter by in effect classing me as a new subscriber and then applying new insurance conditionally i.e. my pet is now over your entry level age threshold. I submit that your decision – without any due consideration of the circumstances – is made in poor faith as an insurance company and is unfair and unethical. [...].”

By email dated **9 May 2017**, the Insurance Intermediary responded to the Complainant, as follows:

“As discussed on the phone yesterday we are unable to renew a policy with such a large break in cover. The renewal date was the 18-03-2017 which was over 7 weeks ago. We issued your renewal documents on the 17/02/2017 and followed up with a number of calls to the number we had on file [phone number]. A voicemail was left on the 16/03/2017 by one of our agents advising about your pet’s renewal. On your documents it is highlighted in red writing that we don’t have any payments details on file and that policyholders need to contact us with their payments details to renew their policy.

As your pet is over 5 years of age we cannot offer to quote for the pet again. This is our age limit for new policies as set out by our underwriters. [...].”

Analysis

It appears from the evidence that Entity A ceased offering pet insurance and, at a certain point in early 2017, it wrote to its policyholders to notify them of this. Around the same time, having been supplied with policyholder details by Entity A, the Insurance Intermediary sought to offer pet insurance to Entity A policyholders, in essence, to allow their cover with Entity A to continue on an effectively unbroken or uninterrupted basis.

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I note that a month in advance of the start date of the renewal of cover offered by the Provider, the Insurance Intermediary attempted to contact the Complainant by telephone on **17 February 2017** regarding a renewal quotation. This is made clear by the evidence available. Having been unsuccessful in making telephone contact the Insurance Intermediary, on the same day, also issued a letter to the Complainant, offering pet insurance cover from **March 2017**.

In the context of the present complaint, I note that this letter clearly set out the payment options available to the Complainant. If the Complainant wished to renew cover, the letter further requested, in a prominent manner, that the Complainant contact the Insurance Intermediary and provide her credit card or direct debit details; the letter made it clear that the Insurance Intermediary did not have this bank account information on file. I note that this information was stated twice within the letter, and the colouring used in the paragraphs drew prominent attention to the need for the Complainant to make contact to arrange for a payment method, so that cover could proceed.

Following this, the evidence shows that on **16 March 2017**, approximately a month later, the Insurance Intermediary also left a voice message for the Complainant, regarding the policy quotation it had offered her.

At the time of the policy start date of **18 March 2017**, the Complainant had not contacted the Insurance Intermediary regarding the policy quotation, either in response to the telephone messages, or in reply to the letter she had been sent. In this respect, I note that subsequently, two further unsuccessful attempts were made by the Insurance Intermediary to speak with the Complainant by telephone, on **29 March** and **3 April 2017** respectively.

It was some weeks later when the Complainant contacted the Insurance Intermediary on **8 May 2017** and at that stage, she sought to renew her policy cover. During this telephone call, the Complainant was advised that it was not possible to renew cover due to the time (being **seven weeks**) which had elapsed since the proposed cover start date in March 2017. This decision ultimately came from the Provider, as underwriter of the pet insurance cover being offered by the Insurance Intermediary on its behalf.

It is the Complainant's position that she mistakenly understood that her policy with Entity A, would roll over to the Provider, through the Insurance Intermediary she says that she did not realise that she would have to take active steps to renew her cover, for her pet, through the Insurance Intermediary.

The Complainant acknowledges that she did not pay sufficient attention to the Insurance Intermediary's letter and she says that this was inadvertence on her part. The Complainant considers that she is being treated unfairly in terms of the refusal to renew her cover. In a submission dated **20 November 2017**, the Complainant contended that the Provider's refusal to renew cover in May 2017, 3 months after the renewal quotation had been sent to her, was unjust and disproportionate.

In considering the decision to refuse to renew the Complainant's pet insurance cover, I believe that regard should be had to the terms on which the Insurance Intermediary on behalf of the Provider proposed to offer cover to the Complainant. I note in that regard, that in the letter of **17 February 2017**, the Insurance Intermediary was offering pet insurance cover, regardless of the age of the Complainant's dog and regardless of the Complainant's claim status. Although the policy would not be identical, this nevertheless appears to have had the effect of allowing the Complainant to effectively continue with pet insurance cover, as a continuation from the cover she had previously held with Entity A, on an unbroken or uninterrupted basis. This would have avoided her having to apply for cover as a new or first-time applicant. As a result, it is my opinion that the Insurance Intermediary on behalf of the Provider adopted a very reasonable approach to the terms on which it was prepared to offer pet insurance cover to the Complainant, at that time.

Further to this, I am satisfied that reasonable attempts were made by the Insurance Intermediary to communicate with the Complainant, regarding the potential renewal of cover, in advance of the policy start date.

I am also satisfied that the requirement for the Complainant to provide payment details to the Insurance Intermediary, to facilitate the payment of premiums, was set out in a clear and prominent manner, within the body of the letter of **17 February 2017** which was sent to her. I further note that the Insurance Intermediary's quotation did not expire or immediately lapse, once the policy start date was reached in March 2017. In this respect, I note that telephone contact was attempted **twice** in the **two week** period following the policy start date. As a result, I am satisfied that reasonable efforts were made by the Provider, through the Insurance Intermediary, to make contact with the Complainant following the policy start date.

It appears from the evidence that the Complainant could have renewed her cover if she had contacted the Insurance Intermediary either during the 4 week period following its written communication of **17 February 2017**, or indeed during the **two week** period following the policy start date in **March 2017**. However, she made no contact within that period and when she eventually got in touch in **May 2017**, a period of **seven weeks** had elapsed since the proposed policy start date, and at that stage, the Insurance Intermediary on behalf of the Provider would not renew the Complainant's pet cover.

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In this respect, I do not accept that the offer of pet insurance cover as set out in the Insurance Intermediary's letter of **17 February 2017** was required to remain open for acceptance on an indefinite basis, or beyond the policy start date. It is my opinion that a decision to hold the potential renewal of the Complainant's cover open, up to a date after the policy start date, was a matter within the commercial discretion of the Insurance Intermediary on behalf of the Provider.

In terms of such a discretion, it is important to note that this Office will not interfere with the commercial discretion of a financial service provider to accept or reject a proposal for insurance cover, or to offer cover renewal, unless the provider's conduct in that context is determined to be unreasonable, unjust, oppressive or improperly discriminatory.

In this instance, it appears from the evidence that the Insurance Intermediary on behalf of the Provider were prepared to renew the Complainant's cover during the **two week period** following the start date of the policy which had been offered. However, I do not consider the Provider's decision to refuse to renew cover beyond this **two week** grace period, or at the time of Complainant's telephone call on **8 May 2017**, to have been an unreasonable one, or that it was unjust, oppressive or improperly discriminatory in its application to the Complainant within the meaning of **section 60(2)(b)** of the ***Financial Services and Pensions Ombudsman Act 2017***.

Although the Insurance Intermediary on behalf of the Provider was no longer in a position to renew the Complainant's cover, the Complainant was of course entitled to apply for a new pet insurance policy with the Provider. However, the Insurance Intermediary on behalf of the Provider did not offer cover in respect of dogs above the age of **five** and, owing to the age of the Complainant's dog which was **nine** years old at the time, the Complainant was not eligible for a new pet insurance policy with the Provider.

In terms of the policy age limit, I consider this to be a matter within the commercial discretion of the Provider. As noted above, this Office will not interfere with the commercial discretion of a financial service provider, except in certain specific circumstances. However, having considered the matter at length, I am not satisfied that having a maximum policy limit of **five years** of age, for pets which are to be newly insured is unreasonable, unjust, oppressive or improperly discriminatory.

While I appreciate that the Complainant's position in May 2017 was unfortunate, and indeed she remains in a difficult position in terms of securing cover for her pet which is now 14 years old, I do not accept that the Provider was guilty of any wrongdoing. I note that the Provider through the Insurance Intermediary had made every reasonable effort to communicate with her to give her the opportunity to renew cover in time.

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Regrettably, it was the Complainant's own failure to respond to the verbal and written communications from the Insurance Intermediary from February 2017 onwards, that led to her missing the opportunity to renew cover for her aging pet.

Taking account of the basis on which the Insurance Intermediary on behalf of the Provider was prepared to offer renewal of cover, and also the various attempts made to communicate with the Complainant both before and after the Provider policy start date, I am satisfied that the evidence does not disclose wrongdoing on the part of the Provider, and that the refusal to renew, or to offer continued policy cover to the Complainant for her pet, when she eventually made contact on **8 May 2017** was not unreasonable or unfair.

Therefore, for the reasons outlined above, I do not consider there to be any reasonable basis upon which it would be appropriate to uphold this complaint against the Provider.

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

5 October 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.