

The complaint

Mr L has complained about his car insurer Soteria Insurance Limited because, following an accident claim, it voided his policy. He is also unhappy that, later, it sought to recover its claim outlay from him, particularly regarding the total cost it was seeking.

What happened

Mr L arranged cover with Soteria for himself, naming his wife as a driver too. Mr L has said that, in April 2020, he wrote to Soteria, advising he no longer lived at the property detailed on the policy ("address A"), that he and his wife had split up and, at renewal, the policy should be transferred into her name. The policy was due to renew in December 2020.

In January 2021 Mr L's former wife had an accident whilst driving the car. Mr L made a claim to Soteria. It discovered there had been claims made before the policy was arranged which it hadn't been told about. It decided to void the policy. Soteria wrote to Mr L, at address A. Mr L complained to Soteria about its decision and Soteria issued a final response on 30 March 2021, to Mr L, at address A.

In June 2021 Soteria wrote to Mr L asking him to reimburse its claim outlay. The letter said that its outlay at that point was £9,209.64 – but that may increase if further claims were received. It also said that if Mr L did not respond, the matter would be transferred to its solicitors for recovery proceedings to commence. A further letter, with the same content was sent in August 2021.

Soteria did not hear from Mr L and it duly instructed its solicitors. In December 2022 Soteria's solicitors wrote to Mr L – advising its outlay was £18,417.02. To which interest was reasonably added. The letter notified Mr L of the intention to issue legal proceedings. A court claim was then made on 31 January 2023 for a total sum against Mr L of £21,268.53. With a county court judgment (CCJ) later being entered against Mr L.

Mr L complained to the Financial Ombudsman Service. Both about the avoidance and Soteria's recovery of costs, including that costs had risen from around £9,000 in June 2021 to a CCJ for just over £21,000 in 2023.

Our Investigator said he couldn't look at the avoidance. He said Mr L had not complained in time and there hadn't been any exceptional circumstances which had prevented him from doing so. Regarding Soteria's recovery activity he said the policy allowed it to take such action and the costs in question were subject of a CCJ, which he couldn't reasonably go behind. So he wasn't minded to uphold Mr L's complaint.

Mr L was unhappy. His complaint was passed for an Ombudsman's consideration.

Mr L felt we hadn't considered that he hadn't received Soteria's final response letter dated 30 March 2021. I considered Mr L's concerns to decide whether the Financial Ombudsman Service can look at the merits of the complaint about the avoidance. I issued a separate decision explaining that we cannot.

Regarding recovery, Mr L said he felt that his main concern, about the increase in costs, had not been considered. He felt our Investigator should have done this. When I looked at Mr L's complaint about recovery, I felt Soteria had acted fairly and reasonably in seeking to recover its outlay from Mr L. But also that little detail in this respect had been shared with the parties. I issued a provisional decision. Neither Mr L nor Soteria commented on my findings.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Regarding Soteria's recovery activity, I said provisionally:

"I know Mr L is concerned about Soteria's recovery activity. As our Investigator explained, Soteria's policy does allow it to seek to recover its outlay from Mr L. That is because legislation requires it to settle third-party claims, even where a policy is voided, as though cover was in place. If the policy had not been voided, the cover in place would have meant Soteria bore these costs. But Soteria, reasonably, doesn't want to bear the cost of a claim where it has voided the cover. So Soteria is fairly and reasonably able to seek to recover its costs in this respect from Mr L.

I appreciate that Mr L is concerned about how Soteria came to the costs it has asked him to repay. And that he wasn't notified that costs were increasing/had increased – receiving an initial demand in 2021 for around £9,000, then a CCJ in 2023 for just over £21,000.

Our Investigator told Mr L that we can't go behind the CCJ. I bear in mind that, in some instances, we can dismiss complaints where their subject matter has already been decided by the courts. This Service is an alternative to the courts and we certainly have no power to overturn a court's decision. And the court decided Mr L owes Soteria £21,268.53. So I don't think it would be fair for me to begin reconsidering here the quantum of the sum subject of the CCJ.

But I note Mr L is upset about how he came to be in this position – with £9,000 increasing to £21,000 and him not being given sufficient warning about any action. And we do have a remit for considering whether a business has acted fairly and reasonably.

I see that Soteria did not communicate with Mr L much between its letter of June 2021 and its solicitors contact with Mr L in late 2022. I can see that in June 2021, Soteria's claim outlay which it was asking Mr L to reimburse, was just over £9,000. Seemingly, after that, further claim costs came to its attention. I understand that there were some injury claims from third-parties and these types of costs can take time to come through. But, Soteria had already warned Mr L that if he did not contact it to organise reimbursement, it would pass the matter to its solicitors. And that, in due course, the costs it would seek to recover might increase. Mr L did not contact Soteria at that time, the matter was subsequently passed to its solicitors and recovery action, regarding an increased level of costs, was undertaken. I think Soteria acted fairly and reasonably in this respect."

With regret for the disappointment I know this will cause Mr L. I remain of the view that Soteria acted fairly and reasonably regarding recovery. My provisional findings in this respect are now final, forming the findings of this my final decision.

My final decision

I don't uphold this complaint regarding Soteria's recovery activity. As such, I'm not making any award against Soteria Insurance Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 27 October 2023.

Fiona Robinson
Ombudsman