

The complaint

Mr K complains that when he cancelled his insurance policy, Lockton Companies LLP failed to pay a refund of premium to him.

What happened

Mr K took out a public products and malpractice liability insurance policy through Lockton. Lockton is an insurance intermediary and the cover is underwritten by an insurer.

Mr K contacted Lockton about a potential claim by a patient and this was referred to the insurer. He later said he intended to offer a refund to the patient himself.

Lockton advised Mr K that the insurer had agreed to assist him with the costs but wouldn't reimburse the 'profit element'. He was asked to provide details of the costs and was told once that was provided he would be told how much the insurer would reimburse him.

Mr K was unhappy with the service being provided by Lockton and gave notice to cancel his policy.

Shortly after this, Lockton told Mr K the insurers had agreed to pay £12,466 and said as a claim was now being settled, no refund of premium would be due. He was asked to provide evidence of the relevant costs and after providing that information, Mr K received the payment from the insurers.

Mr K then complained that he cancelled his policy on the understanding he would receive a refund of premium and Lockton had gone back on that promise.

In its response to the complaint, Lockton accepted there had been some poor service and apologised for that, but said

- the terms of the policy clearly say refunds are subject to claims made;
- he had been told when the offer of £12,466 was made that if he accepted the settlement he would no longer be entitled to any refund.

Mr K referred his complaint to this Service but our investigator didn't think it should be upheld as Mr K had received a payment from the insurer in respect of a claim.

Mr K disagrees and has requested an ombudsman's decision. He says the payment from the insurer was made as a gesture of goodwill and there wasn't a formal claim on the policy.

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.

The policy terms allow Mr K to cancel his policy on giving 30 days' notice in writing and say *"You will be entitled to a proportionate return of premium unless a Claim has been made in the current Period of Insurance."*

So if Mr K had made a claim on his policy he wouldn't be entitled to any refund of premium.

Mr K says there wasn't a claim and the payment he received was a goodwill settlement for expenses. However, I'm satisfied there was a claim and so he wasn't entitled to a refund of premium. I'll explain why.

A claim was referred to the insurer. In an email sent to Mr K he was told the insurer had agreed to assist him with the costs but wouldn't reimburse the 'profit element'. He was asked to provide details of the costs and Lockton said once that was provided it "*will be in a position to advise of the sum which the insurer is prepared to reimburse you*". So there was a claim being considered by the insurer.

Mr K decided to make a payment to the patient to settle the matter without the patient pursuing a formal claim against him. But that doesn't mean the claim he made on his insurance policy also ended. Mr K sent an email saying he had refunded the patient but he needed to understand how this claim would affect next year's premium. He added "*I understand I have the option to not make the claim*".

Following a conversation with Mr K about cancelling his policy, Lockton sent an email to him with details of the cancellation and refund, but said if he'd had a claim during the policy period he would not be eligible for a refund. Mr K then confirmed he wanted to cancel.

The insurer continued reviewing the claim and Mr K was told "*insurers have agreed to meet the costs incurred in the sum of £12,466... as a gesture of goodwill this includes the cost of 13 implants when it appears only 12 were used.*" This email went on to say "*as a claim has now been settled, no refund of premium will be due ... If you can provide proof of payment we will liaise with insurers to make settlement.*"

Mr K then provided proof of the refund he had paid to the patient after which the insurers paid him the sum of £12,466 as a contribution towards that.

Looking at the above sequence of events, I think it's clear a claim was considered by the insurer, who made a payment of over £12,000 to Mr K as a contribution towards the amount he had paid to the patient. The "goodwill gesture" referred to the fact the insurer agreed to pay the cost of 13 implants rather than 12.

Mr K was told if he provided details of the sum he'd paid, the insurer would settle the claim and that meant he would not be entitled to a refund. He went ahead on that basis.

My final decision

My decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 5 December 2023.

Peter Whiteley
Ombudsman