

## The complaint

Miss S has complained that Action 365 Ltd wrongly charged her for her motor policy when she had cancelled it within the first 14 days, after credit to pay by monthly instalments was denied.

## What happened

Miss S renewed her telematics-based motor policy with Action 365 on the basis she would pay the premium by instalments. Her policy was due to start on 16 March 2023. Shortly after the renewal, Action 365 told Miss S the credit facility for her to pay the premium by instalments had been denied by the credit company.

This meant Miss S needed to pay her premium in full right away. Miss S said she couldn't afford to do that, and she said she immediately asked Action 365 to cancel her policy. Miss S said this was within the 14-day cooling off period.

Miss S said that Action 365 didn't cancel her policy but instead continued to chase her to instal the telematics device in her car. When this didn't happen it then cancelled her policy and imposed several charges totalling £217.06. It then took payment for these charges from her bank account which left her unable to afford food and travel for a month.

Miss S complained. Action 365 refunded some of the charges in the sum of £115.00. Miss S said she never received this refund. And she wasn't satisfied so little had been refunded given she had asked for her policy to be cancelled on hearing she couldn't get a credit agreement to pay the premium by instalments, which Action 365 then failed to action promptly.

So, Miss S brought her complaint to us. The investigator ultimately upheld her complaint. Action 365 then recalculated what it thought Miss S owed it and said it was £18.39 time on cover charges plus £35.00 for the new business charge which it says was non-refundable. It also maintained Miss S should pay £31.96 for the add on product costs which she also took out with her policy.

The investigator agreed Miss S should only pay £18.39 time on risk so she said Action 365 should refund Miss S the extra £16.71 it had charged her for the time on risk. She didn't think any new business charge should be applied so it should refund Miss S the £35.00 it had charged her for that. The investigator also was of the view that the add on product costs of £31.96 should also be refunded to Miss S.

The investigator said that as the original refund from Action 365 was never paid into Miss S' account, Action 365 should liaise with Miss S to ensure it had her correct bank details. It should also pay her £150 compensation. And ensure that the Claims Underwriting Exchange (CUE) was updated to show the policy was cancelled by Miss S and not Action 365. Lastly it was to desist from contacting her for the return of the telematics device as she had already returned it. Miss S agreed with the investigator's suggested outcome.

Whilst Action 365 made various comments about the investigator's first view, it merely asked for an ombudsman's decision with no reasons given in response to this view. Therefore, Miss S' complaint has now been passed to me to decide.

### **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.

Having done so, I'm upholding this complaint along the same lines as the investigator. I'll now explain why.

Miss S has shown that she asked Action 365 for her policy to be cancelled on 27 March 2023 which Action 365 eventually admitted it had received but simply didn't action at that time. This was also within the 14-day cooling off period as her policy started on 16 March 2023. Miss S did this once she realised, she wasn't going to be permitted by the finance company to pay this premium by instalments. She has since found another policy elsewhere which she is able to pay by instalments too. Action 365 tried to say Miss S had sent the email to cancel her policy to an unmonitored email address, but this also turned out to be untrue.

Because Action 365 didn't do anything with her notification that her policy was to be cancelled several issues arose, one was taking £217.06 from her account without agreeing it with her and checking its own file to ensure she hadn't asked for her policy to be cancelled. That put Miss S in an impossible situation as regards funds in her bank account for ordinary day to day living expenses which both caused real hardship plus significant distress and worry.

The other issue is that although Miss S had returned the telematics device by post she continued to receive chasers for the return of this right up to November 2023, which again caused Miss S annoyance and frustration.

In its final response letter to her complaint, Action 365 said it was refunding her at total of £115.00. Miss S has never received this. It now transpires Action 365 doesn't have her correct bank details. I consider this is odd since it was able to take a payment from her of £217.06.

There was also confusion as to whether the cancellation charge and the charge for the telematics device was waived as late as the end of October 2023. And whether the add on cover was refundable or not depending on when Action 365 decided to accept she had asked for her policy to be cancelled. In the end Action 365 were at least agreeable to the reduced time on risk cover of £18.39 which the investigator had calculated but appeared to still require the new business charge of £35.00 to be paid.

I consider that although Action 365 weren't responsible for the fact that credit was denied to Miss S, its handling of the matter then descended into increasing confusion because it simply didn't action Miss S' clear instruction to cancel her policy. Instead, Action 365 got into a muddle about which fees were chargeable and whether they were calculated coherently given Miss S had in fact asked for her policy to be cancelled within the cooling off period. I consider this significantly increased the distress and upset for Miss S.

On this basis, given all the confusion above, I consider it's fair and reasonable that the only payment Miss S should make is the payment for the correct time on risk. Action 365 should therefore ensure it now refunds Miss S the total sum of £197.67 from the original £217.06 it

took from her account. This is because Miss S has never received the initial refund of £115.00 which Action 365 said it sent her but then said it didn't have her correct bank details. Interest of 8% simple should be added to this from the date it took the £217.06 from her bank account to the date it finally refunds Miss S.

For the avoidance of any doubt, I don't consider it's fair or reasonable to charge her any new business charge, any cancellation charge, or any telematics device charge since she returned it back in March 2023. I also consider that since she cancelled her policy within the 14 days cooling off period, that no charge can be made for the varying add-on cover she also bought with her policy. I also consider the constant chasing for the telematics device which was returned by Miss S should now cease and Action 365 must update its records properly that this has been returned by Miss S.

I also consider this matter caused Miss S a considerable amount of unnecessary distress and upset. More so since she was without coherent funds in her bank for her day to day living expenses for a month. So, I agree she should be paid compensation additionally. I consider the amount suggested by the investigator of £150 to be reasonable in these circumstances. That's because that's in line with our approach as detailed in our website and it's in line with other awards I have made in similar circumstances.

Lastly Action 365 should ensure the details registered in CUE are to show that Miss S cancelled this policy rather than Action 365 and it should provide confirmation of this in writing to Miss S also.

### **My final decision**

So, for these reasons, it's my final decision that I'm upholding this complaint.

I now require Action 365 Ltd to do the following:

- Refund Miss S the sum of £197.67 to her correct bank details.
- Add interest of 8% simple per year from the date it took the payment from her account of £217.06 to the date it refunds her. If income tax is to be deducted from the interest, appropriate documentation should be provided to Miss S for HMRC purposes.
- Pay Miss S the sum of £150 compensation to her correct bank details.
- Provide written confirmation that CUE has been properly updated to reflect Miss S cancelled this policy not Action 365.
- Desist from sending Miss S any further emails asking for the return of the telematics device.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 6 February 2024.

Rona Doyle  
**Ombudsman**