

## **The complaint**

Mrs N has complained about Action 365 Ltd. She says it mis-sold her a motor insurance policy and this caused her to lose out during a claim she made.

## **What happened**

I'll summarise the main points about this dispute:

- Mrs N took out motor insurance online. It was sold and administered by Action 365. The underwriter is a separate company, who I'll call M.
- Mrs N called Action 365 to check the courtesy car cover was suitable for her needs. She has a disability which means she needs a certain type of car. It said she would need to take out additional cover to ensure she would receive a like for like courtesy car if she made a claim. Mrs N paid £39.95 for that additional cover.
- Later, Mrs N made a claim. She discovered she wasn't entitled to a like for like courtesy car under the policy, despite what Action 265 said and paying for the additional cover. After she raised this point with Action 365, it arranged a like for like car for her. But, in the meantime, she used taxis for 22 days, incurring costs.
- After Mrs N had had the courtesy car for 28 days, she had to return it in line with M's policy terms. 16 days later, she received the claim settlement payment.
- Mrs N complained about what had happened. She said Action 365 had mis-sold the policy by fraudulently misrepresenting it, had discriminated against her due to her disability, had caused delays, and had communicated poorly. She asked for £5,000 compensation and for her taxi costs to be refunded. She also said the insurance contract was voidable, so she should receive back all the premiums she paid for it.
- Action 365 accepted it had made mistakes, had caused delays and hadn't call Mrs N back when it said it would. It offered to do the following to put things right:
  - Refund the £39.95 Mrs N paid for the additional cover.
  - Pay a total of £550 compensation.
  - Pay her 'out of pocket' expenses. Mrs N submitted taxi costs for the 22 day period she was initially without a car and Action 365 refunded these.
- Our investigator thought Action 365 had taken reasonable steps to put things right.
- Mrs N asked for her complaint to be referred to an Ombudsman. In summary, she said:
  - Nothing had been offered for the 16 day period she went without a car.
  - The policy wasn't fit for purpose, so it should be void. She's not legally required to pay for something she didn't receive.

- When the policy was sold to her, she was given the impression the car would be like for like *and* she would have it for the duration of the claim. Had she known this wasn't how the policy worked, she wouldn't have taken it out.
  - As a result, she thinks the policy is voidable from January 2023, when the claim was settled. This is because, for the remainder of the policy term, she won't have the courtesy car cover Action 365 led her to believe she would. She would like a refund for the remainder of the policy term to put that right.
- Our investigator wasn't persuaded to change his mind, so the complaint has been passed to me.

### **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.

- In this complaint, I can only consider the way Action 365 acted when selling the policy. I can't consider the policy terms, or the way the claim was handled, as these things are the responsibility of M.
- When selling the insurance policy, Action 365 had a duty to provide Mrs N with information that was clear, fair and not misleading.
- The main policy was broadly what Mrs N wanted – motor insurance to cover her car in the event of a claim. M did that and paid a cash settlement. So she's received the core aspect of the policy she wanted and benefitted from it. As a result, I'm not satisfied the main policy was mis-sold. And that means I don't think the main policy is voidable or that Action 365 should refund any of its cost to Mrs N.
- Action 365 accepts it mis-sold the additional cover. It told Mrs N she would receive a like for like car if she bought it. But this is not what the additional cover offers.
- Mrs N also says Action 365 led her to believe she would receive the car for as long as it took to settle the claim. But this didn't happen because the policy only provides a courtesy car for up to 28 days. As a result, Mrs N had a 16 day period without a car. Action 365 hasn't commented on this point or challenged what Mrs N has said about it. So, as it stands, I'm more persuaded by what she's said.
- Taking the above two points into account, I'm satisfied the additional cover was mis-sold because Action 365 didn't provide information that was clear, fair and not misleading. Action 365 has taken steps to put that right. The key question for me is whether those steps go far enough in the circumstances.
- Action 365 has refunded the £39.95 Mrs N paid for additional cover. And it provided a like for like car for Mrs N for up to 28 days. That means Mrs N has had some of the benefit she thought she would get with the additional cover, but none of the cost.
- It's also refunded all the taxi costs Mrs N incurred during the initial 22 day period. So she hasn't suffered a financial loss for the delay in receiving a like for like car.
- That means the only potential financial loss Mrs N may have outstanding is from the 16 day period between having to return the courtesy car, in line with the policy terms, and receiving the claim settlement. But Mrs N hasn't provided any receipts from this time, so I can understand why Action 365 hasn't made an offer on this point.

- Action 365 has offered to consider any out of pocket expenses Mrs N had as a result of the way the policy was sold. So if she shares her taxi receipts from the 16 day period with it, I would expect it to do this.
- Action 365's mistake had an impact on the claim. Most notably, Mrs N had to make much more contact than normal, with various parties, to resolve the problem with the courtesy car. She also had to arrange a number of taxis, provide all the receipts for them, and there was a delay refunding all the costs to her. As a result, I'm satisfied she suffered avoidable distress and inconvenience. Taking everything into account, I consider the £550 already offered by Action 365 is fair and reasonable.
- Mrs N has noted the policy remains in place without the full extent of courtesy car cover she thought it had. It will expire in August 2023. So if she's had, or goes on to have, a claim during the remainder of the policy period, she may find herself in a similar position again. If that happens, I would expect Action 365 to take reasonable steps to treat her fairly. If that doesn't happen, I don't think there's anything further for Action 365 to do on this point because it's already refunded the additional cover cost.
- I haven't seen any evidence to suggest Action 365 acted fraudulently. Or that it treated Mrs N differently to any other customer as a result of her disability. I think it simply made a mistake when selling her the policy.

### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs N to accept or reject my decision before 4 August 2023.

James Neville  
**Ombudsman**