

The complaint

Mr S complains that Watford Insurance Company Europe Limited paid a third party's claim under his car insurance policy and has said it would recovery its outlay from him.

What happened

Mr S was asked to help his ex-partner move. Mr S's son had a van but was disqualified from driving, so Mr S bought a short-term insurance policy with Watford to insure himself to drive his son's van for the move.

Mr S didn't end up using his son's van, however, he was contacted by Watford to say a third party had reported that he was involved in an incident while driving the van. Photos taken at the scene of the accident showed it was Mr S's son who was driving the van when it was involved in the incident with the third party's vehicle.

Watford reviewed the claim and, as there was no other insurance covering the van, it was obliged to pay the third party's claim. It was deemed Mr S's son was at fault for the accident and Watford said that, as Mr S was the only person insured to drive the van, the policy didn't provide cover for the circumstances of the accident. And, as Watford was obliged under the Road Traffic Act 1988 (RTA) to pay the third party's claim, it said it would look to recover the money it had paid out from Mr S.

Mr S didn't think this was fair and complained but Watford didn't change its position, so Mr S brought his complaint here. He said it wasn't fair that he was held responsible for the claim costs when it wasn't him driving the van at the time and it wasn't his van. He also said his partner had now also had their insurance cancelled as they hadn't realised this claim needed to be declared to their insurer.

Our Investigator reviewed the complaint and found that Watford was obliged under the RTA to pay the third party's claim. She also found the policy said in situations like this that Watford was entitled to recover its outlay from Mr S.

Mr S didn't think this was fair and asked for an Ombudsman's decision, so the complaint has come 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.

The terms and conditions of the policy say it does not cover:

“Claims arising from the following:...

- Your Car being driven by or in the charge of any person who is not named as entitled to drive on Your Certificate of Motor Insurance.”

It's not in dispute that Mr S's son was driving at the time of the incident, or that he isn't insured to drive the van. The policy definition of "Your Car" refers to the car insured by the policy. I'm therefore satisfied this term applies. The van was taken by someone who had permission to use it, as the van belongs to Mr S's son, so I'm also satisfied Watford is applying it fairly by saying it doesn't want to cover claims caused by someone who isn't covered by the policy.

The policy also goes onto say:

"3. Right of recovery

If under the laws of any country in which this insurance applies, We have to make payments which but for those laws would not be covered by this Policy, You must repay the amounts to Us. If any claims or other monies are paid to You by mistake for any reason, or a claim has been paid which We later find to be fraudulent, false or exaggerated, You must repay the amount paid by Us."

As Mr S's son wasn't covered by the policy and there was no other insurance policy in place, Watford would therefore be required under the RTA to settle the third party's claim. So, I'm not persuaded it's acted unfairly by paying them. The policy, like most policies, allow Watford to recover from the policyholder costs it's incurred due to the RTA, as it should never have incurred those costs. I appreciate this means Mr S is now likely to be liable for them, and while I do empathise with his situation, I'm not persuaded it would be fair and reasonable for Watford to be responsible for costs it should never have incurred. I'm therefore not going to interfere with its choice to recover costs for this claim from Mr S. However, to be clear, in this decision I haven't considered the amount being recovered, if Mr S has a concern about how much Watford is trying to recover from him, it would need to be raised separately.

I'm also aware that Mr S has said his partner has had their car insurance policy cancelled due to not realising this claim needed to be declared to their new insurer. This isn't something I can comment on this decision, as the cancellation is on a different policy and done by another insurer. If Mr S's partner thinks this cancellation is unfair, then that would need to be raised with the insurer who cancelled the policy.

My final decision

For the reasons explained above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 14 December 2023.

Alex Newman
Ombudsman