

The complaint

Mr H complains about Watford Insurance Company Europe Limited's ("Watford Insurance") decision to decline his claim under his car insurance policy.

What happened

Mr H took out a policy with Watford Insurance through an online comparison site. He decided to take out cover for 'social, domestic and pleasure' use. During the policy year, Mr H took on a second occupation which involved him working in different locations. While travelling to one location, Mr H was involved in an accident, so he made a claim against his policy. Watford Insurance declined indemnity for the claim on the basis Mr H was driving outside his scope of cover at the time the accident occurred. So, Mr H complained about Watford Insurance's decision.

Watford Insurance responded and explained Mr H's policy covered him for use of his vehicle for social, domestic and pleasure purposes. They said they sent insurance documentation to Mr H which made it clear what cover he had for what use, and also what was specifically excluded. Watford Insurance said Mr H was asked to check these carefully and to contact them if anything was incorrect. Watford Insurance said, when Mr H reported the accident to them, he confirmed he was travelling to his place of work. They said, given Mr H's travel arrangements on the day in question, he required cover for business use, which he didn't have. Watford Insurance explained, when Mr H commenced his second occupation, it was necessary for him to notify them of this immediately. They said, had Mr H done so, and wanted to be able to use his car to travel to and from his second occupation, he would've needed to add business use. Watford Insurance said, as Mr H's policy excludes any business use and commuting, they took the decision to decline indemnity for his claim.

Our investigator looked into things for Mr H. She thought Watford Insurance's decision to decline the claim was unreasonable and recommended they settle the claim on a proportionate basis and pay 8% simple interest. Watford Insurance disagreed so the matter has come to me for a decision.

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've decided to uphold the complaint. And, I think the investigator's recommendation is a fair way to resolve matters.

My role requires me to say how a complaint should be settled quickly and with minimal formality and so I'll focus on what I consider to be the crux of the complaint and the main areas of dispute. There's no dispute that Mr H took out cover for social, domestic and pleasure use, and the accident occurred while Mr H was using his car for a purpose outside this scope. The main dispute here relates to Watford Insurance's decision to decline the claim on this basis. So, I've looked to see whether Watford Insurance have acted reasonably here.

I've looked at the proposal form, and this shows Mr H was asked to confirm the class of use required, and he answered, "*Use for social, domestic and pleasure purposes.*" The certificate of insurance sets out the 'Limitation as to use' and explains the policy covers use for social, domestic and pleasure purposes. It goes further to say business use is excluded.

Watford Insurance say Mr H used his car to drive to his second, and undisclosed, occupation. They say, as this wasn't a fixed place of work, this would be classed as business use – for which Mr H didn't have cover. They say the claim has been declined as Mr H was using his car for business use, for which he didn't have the necessary cover. Mr H says Watford Insurance's decision is unfair. He believes this was a careless mistake and he thought he had the necessary cover in place to travel to locations for his second occupation.

I can see Mr H believes the relevant law in this case is The Consumer Insurance (Disclosure and Representations) Act 2012 ("CIDRA"). This requires consumers to take reasonable care not to make a misrepresentation when taking out a consumer insurance contract (a policy). Watford Insurance say they're not claiming there has been a misrepresentation here so CIDRA wouldn't apply. So, I've thought about whether the CIDRA rules should apply in these circumstances. For it to apply Mr H must have made a misrepresentation when he applied for his insurance policy with Watford Insurance. Insurers use the information a customer provides to assess risk and to decide whether to provide cover and at what price. So, if Mr H intended using his car for business use, and told Watford Insurance he didn't, this would potentially constitute a misrepresentation.

However, in this case, the policy commenced in September 2022 and Mr H started his secondary occupation in December 2022. So the change in circumstances occurred after Mr H applied for his policy. In light of this, I don't think a misrepresentation was made by Mr H under the CIDRA rules. That said, the policy terms and conditions do require Mr H to inform Watford Insurance immediately if "*...you or anyone covered by this Policy ceasing or changing jobs, or starting a new job, including any part-time work...*"

I think the terms are clear that if Mr H started a new job, he needed to tell Watford Insurance about this. I believe this would constitute a fundamental change to the risk involved in insuring Mr H's car, so it's reasonable that Watford Insurance would want to know about it. So, given there has been non-disclosure of material information here, I've looked to see what action the policy terms and conditions allow Watford Insurance to take.

Under the heading 'Changes which may affect your cover' it sets out the importance of notifying Watford Insurance of any changes and says any changes will be subject to Watford Insurance's agreement. It goes further to say, "*If a change to your Policy is acceptable it may result in revised Terms and/or a change in the premium.*" It goes further to say, "*Failure to notify any required changes...may result in Your Policy being cancelled or treated as if it never existed, or in Your claim being rejected or not fully paid.*" I've said that a misrepresentation wasn't made by Mr H under the CIDRA rules. So, in the circumstances of this case, I've decided this based on what I think is fair and reasonable.

The first point I've considered is why Mr H didn't disclose details of his second occupation. Mr H says he mostly uses public transport for both his full-time and second occupation, or his partner's car which has the necessary cover. Mr H explains he used his car, as a one-off, to travel to the location for his second occupation. He explains his second occupation isn't a regular job and he only helps out, as and when needed. Mr H says, on the day of the accident, he picked up an emergency last minute shift. He says his partner had taken their other car and, because of the late notice and being unfamiliar with the location, he wasn't able to use public transport. He also says he wasn't aware that he wasn't covered for the

journey he made on the day of the accident. He says he was honest when disclosing the nature of his journey and, had he known he didn't have cover, he would've paid the additional amount to have cover in place for business use. Mr H accepts there was an oversight on his part in not informing Watford Insurance of his second occupation. He says there has been a lot going on in his personal life which he has described. Mr H feels not informing Watford Insurance about his second occupation was careless on his part, but not deliberate.

Taking this all into account, I'm persuaded by Mr H's testimony as it's supported by the account he has given to Watford Insurance about the infrequent use of his car when travelling for work. I'm persuaded this was an innocent mistake on Mr H's part, and nothing I've seen suggests Mr H knew he wasn't covered for the journey he was making but deliberately continued using his car to travel to and from his second occupation.

The next point I've considered is what action Watford Insurance would've taken had Mr H disclosed details of his second occupation. I can see our investigator has asked what the position would've been had Mr H notified Watford Insurance of his second occupation. They've demonstrated that Mr H would've been charged an additional premium of £278.32 to add business use to his policy. With this in mind, I think it's reasonable that Watford Insurance settle Mr H's claim on a proportionate basis, considering the premium Mr H would've paid to include business use – against what he actually paid. Given that Mr H has been without any claim settlement for some time, Watford Insurance should add 8% simple interest to the claim settlement.

As I've mentioned, I've considered this in line with what I think is fair and reasonable in the circumstances of this case. And the key points which persuade me this is fair in the circumstances are that I believe Mr H has made an innocent and understandable mistake here in not disclosing his second occupation and in assuming he had the necessary cover for his journey on the day. The terms and conditions do say one of the steps Watford Insurance can take if a customer doesn't notify them of any changes is to not fully pay a claim. And, in this case, Watford Insurance haven't provided any evidence to show they wouldn't have continued providing cover if they'd been notified of the second occupation – instead they've demonstrated they would still have offered the policy, but it would've generated an additional premium.

I acknowledge Watford Insurance say the primary issue here is that Mr H didn't have cover for his use of his car at the time of the accident, and so he was effectively driving uninsured. I don't disagree Mr H didn't have the appropriate cover for the use of his car on the day of the accident. But, as mentioned above, I'm persuaded this was an innocent and understandable mistake and Mr H believed he did have the appropriate cover in place. I believe this is the case as Mr H was honest about the nature of his journey when reporting the accident to Watford Insurance. That being the case, I think settling the claim proportionately leads to a fair and reasonable outcome in the circumstances of this complaint.

Watford Insurance say they believe Mr H wouldn't have agreed to pay any additional premium. They say they believe Mr H would've found the cost too high given the benefit of the cover – particularly as the second occupation wasn't regular and one for which he would use public transport for in any event. I've considered this point, but I haven't seen any evidence which persuades me that Mr H would've, more likely than not, declined to pay the additional amount.

I wish to reassure Watford Insurance I've read and considered everything they've sent in, but if I haven't mentioned a particular point or piece of evidence, it isn't because I haven't seen it

or thought about it. It's just that I don't feel I need to reference it to explain my decision. This isn't intended as a discourtesy and is a reflection of the informal nature of our service.

Putting things right

I've taken the view that Watford Insurance have unfairly declined Mr H's claim. So they should settle Mr H's claim proportionately and in line with the remaining terms and conditions of the policy. Given that adding business use to the policy would've generated an additional premium of £278.32, Watford Insurance should settle Mr H's claim on a proportionate basis, considering the premium Mr H would've paid to include business use – against what he actually paid. Watford Insurance should also add 8% simple interest per year to the claim settlement from the date the claim was declined to the date of settlement and pay this to Mr H. Watford Insurance should provide Mr H with a certificate showing any taxation deducted.

My final decision

My final decision is that I uphold the complaint. Watford Insurance Company Europe Limited must take the steps in accordance with what I've said under "Putting things right" above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 16 January 2024.

Paviter Dhaddy
Ombudsman