

## **The complaint**

Mr H complains that Watford Insurance Company Europe Limited (“Watford”) mishandled a claim on his motor insurance policy.

## **What happened**

The subject matter of the claim and the complaint is a car, first registered in 2009.

For the year from early June 2022, Mr H had the car insured on a comprehensive policy branded with the name of an insurance intermediary. Watford was the insurance company that was responsible for dealing with any claim or cancellation of the policy.

The policy covered use only for social, domestic and pleasure purposes (“SD&P”).

The policy documents said that Mr H had four years’ no-claims discount (“NCD”).

Mr H reported that on 25 May 2023 (a Thursday), he was driving to work when a third party vehicle hit his car.

Much of the complaint is about acts, omissions and communications by the intermediary on behalf of Watford. Insofar as I hold Watford responsible for them, I may refer to them as acts, omissions and communications by Watford.

Watford declined to cover the claim and said it would cancel the policy.

On 27 May 2023, Mr H sent an email to Watford. He attached evidence that he had made prior arrangements to attend a social function after work on 25 May 2023, which was why he had been taking the car to work as a one-off instead of his usual journey on public transport.

Mr H complained that Watford wasn’t treating him fairly.

By a final response dated 30 May 2023, Watford turned down the complaint. It declined to indemnify Mr H and said it had given him seven days’ notice of cancellation of the policy. Mr H brought his complaint to us straight away.

### *our investigator’s opinion*

Our investigator initially recommended that the complaint should be upheld. He didn’t think that Watford’s decision to refuse to indemnify Mr H and cancel the insurance was fair and reasonable. The investigator recommended that Watford should:

1. remove the cancellation from all internal and external databases – and amend this as notification only if Mr H or the third party driver don’t proceed to make a claim on the policy;
2. indemnify Mr H in the event that the third party makes a claim against his policy;
3. reimburse Mr H for any costs he may have incurred as a result of the cancellation – if applicable;

4. provide Mr H with confirmation that his NCD is intact – if the third party hadn't made a claim against him;
5. reinstate the policy if Mr H wishes to do so, and he hasn't taken out another policy elsewhere.

Our investigator changed his opinion. He recommended that the complaint should be upheld in part. He thought that the policy excluded the claim in relation to the incident as Mr H had been travelling to a place of employment. However, the investigator thought that this was a one-off. So he didn't think it was fair or reasonable that the policy was cancelled and has been recorded as such on internal and external databases.

The investigator recommended that Watford should:

1. reinstate the policy;
2. remove the cancellation from all internal and external databases;
3. pay Mr H £150.00 compensation for the inconvenience caused by the cancellation;
4. provide Mr H with confirmation his NCD hasn't been affected.

#### *my provisional decision*

After considering all the evidence, I issued a provisional decision on this complaint to Mr H and to Watford on 29 November 2023. I summarise my findings:

Mr H's car's MOT certificate expired in late November 2022 and the car failed an MOT test on about 22 May before passing a test the same day. That was a few days before the accident in May 2023.

Mr H reported that the accident had happened as he was driving the car to his place of employment. The policy excluded cover for such travel. So Mr H was in breach of that policy exclusion.

Such a breach would've been a valid reason for cancelling the policy immediately. So it was also a valid reason for cancelling the policy on seven days' notice.

So I wasn't minded to find that Watford treated Mr H unfairly either by declining to indemnify him or by cancelling his policy.

Subject to any further information either from Mr H or from Watford, my provisional decision was not to uphold this complaint. I didn't intend to direct Watford Insurance Company Europe Limited to do any more in response to this complaint.

Watford accepted the provisional decision.

Mr H disagreed with the provisional decision. He says, in summary, that:

- He did not realise the MOT had expired as he had not been using the car.
- When he went to insure the car for the next year, he realised the MOT had expired; hence he got the MOT check done in May.
- The new policy that was due to start in June included commuting for his new job that started in August (1 location).
- The car was used for the social function.
- It is the principle of the cancellation that he disagrees with. He needed the car for the

social function.

- As for the third party claim, that is ongoing from August 9, normally it takes 6 weeks for the other insurer to settle their claims but he thinks they are trying to fight the photos, witness statement etc. that he has given. He is not sure as Watford haven't told him much else.

### **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.

An insurer may have to make a financial outlay in response to a claim by its policyholder or by a third party. Where an insurer has received a claim, it's common practice for that insurer to treat it as an open claim or as a fault claim against its policyholder unless and until that insurer has established that it won't have to make an outlay or that it can recover its outlay (typically from a third party's insurer but sometimes from its own policyholder).

An open claim or a fault claim will affect the policyholder's NCD.

Mr H's certificate of insurance included the following:

*"The Policy covers: Use only for Social, domestic and pleasure purposes.  
Exclusions: Hiring, racing formally or informally against another motorist, pace-making, competitions, track days, rallies, trials or tests, speed trials or test, either on a road, track or at an off road 4x4 event. Travelling to and from a place of employment or study, commercial travelling, business use, use for tuition, use for hire or reward for fast food delivery or as a courier, carrying passengers for hire or reward or employment related purposes, or for any purpose in connection with the motor trade."*

I've added the underlining. The wording excludes travelling to and from a place of employment (which is slightly wider than "commuting").

The policy terms included the usual right for the insurer to cancel the policy for a valid reason on seven days' notice – and the following term:

*"Alternatively, we have the right to cancel Your Policy immediately, at any time during Your Policy Period, where there is evidence of fraud or a valid reason for doing so. We will still send Our cancellation letter to the latest address We have for You and will set out the reason for cancellation in Our letter. Valid reasons allowing us to immediately cancel may include but are not limited to:*

*...*

*g. If You are in breach of any of the Terms, Exceptions, Exclusions, Conditions or Endorsements contained in or endorsed upon this Policy."*

From its MOT history, I've noted that Mr H's car's MOT certificate expired in late November 2022 and the car failed an MOT test on about 22 May before passing a test the same day. That was a few days before the accident in May 2023.

Mr H reported that the accident had happened as he was driving the car to his place of employment. The policy excluded cover for such travel. So Mr H was in breach of that policy exclusion.

Such a breach would've been a valid reason for cancelling the policy immediately. So it was also a valid reason for cancelling the policy on seven days' notice.

So I don't find that Watford treated Mr H unfairly either by declining to indemnify him or by cancelling his policy. Therefore I don't find it fair and reasonable to direct Watford to pay compensation to Mr H.

The policy would've expired anyway in early June 2023. So I don't find it fair and reasonable to direct Watford to reinstate the policy.

I see no reason to direct Watford to change its internal records of the cancellation.

Not all cancellations by insurers are recorded on an external or shared database. Watford has said that it has amended the record of cancellation on the shared insurance database so that it is no longer shared with other members. I accept that statement.

Watford has gone further by saying that Mr H need not declare the cancellation going forward. But in my view that is subject to Consumer Insurance (Disclosure and Representations) Act 2012 ("CIDRA").

CIDRA obliges a consumer to take reasonable care to avoid making a misrepresentation when taking out an insurance policy. In particular, the consumer must look carefully at the questions asked on behalf of the proposed insurer and give careful answers.

The third party has made a claim against Mr H and Watford has felt obliged to dispute it. While it remains open (or in the event that Watford makes an outlay that it can't recover) the third party's claim will affect Mr H's NCD. That's in line with the usual practice.

#### Response to the provisional decision

Mr H says he didn't realise that the MOT had expired. However, the car needed a test every year and Mr H's car was about six months overdue. So I consider that Mr H had been careless.

Mr H says that when he went to insure the car for the next year, he found it didn't have an MOT, so he got a test done. I accept that the car passed the test before the accident.

Mr H says that the new policy that was due to start from June (2023) covered commuting. However that was in anticipation of starting a new job from August 2023. I don't consider that the details of the new policy changed the fact that - in May 2023 - Mr H used the car to travel to a place where he worked, which the policy didn't cover at that time.

Mr H says the car was used for the social function. However, I've found that he used the car to travel to a place where he worked, which the policy didn't cover.

Mr H disagrees with the cancellation and says he needed the car for the social function. However, I consider that he also needed insurance to drive the car to a place of work. I've found that driving to work without such insurance was a valid reason for cancelling the policy immediately or on seven days' notice.

Mr H says that the third party's insurer is trying to fight the claim but Watford hasn't told him much more. However, Mr H's complaint to Watford (and its final response) were in May 2023 before there had been enough time for much action on the third party claim. So his complaint and my decision don't cover Watford's handling of the third party claim.

### Conclusion

Overall, I don't find that Watford treated Mr H unfairly by declining his claim and cancelling he policy. So I don't find it fair and reasonable to direct Watford to do any more in response to this complaint.

### **My final decision**

For the reasons I've explained, my final decision is not to uphold this complaint. I don't direct Watford Insurance Company Europe Limited to do any more in response to this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 15 January 2024.

Christopher Gilbert

**Ombudsman**