

## The complaint

Mr E complains that Watford Insurance Company Europe Limited (“Watford”) declined a claim under his motor insurance policy.

## What happened

Mr E had a motor insurance policy with Watford covering his car. He took out the policy through a broker.

He originally bought cover in 2017. At the time he was working close by his home. When he was asked to select a choice of cover for his type of use, he chose cover for social, domestic and pleasure.

His policy renewed. In May 2019 he was involved in a collision with a third party when Mr E ran into the back of them at low speed. When the collision happened, Mr E was on his commute to work as his place of work had moved. He hadn’t changed his type of use under the policy.

The claim was reported by the third party. Mr E contacted the broker and asked it to add commuting use to his policy. This was added at no cost.

Watford wouldn’t deal with his claim, apart from doing what it was required to do by road traffic legislation.

Mr E complained about how Watford declined his claim. He also said that he hadn’t had any updates from it and its claims service was poor. Watford sent him a bill for over £16,000 in 2023, which was the total it had spent handling the collision and third part claim.

As Mr E remained unhappy, he brought his complaint to this service. He complains about being billed for over £16,000, about four years after the collision. He also complains about a lack of updates from Watford and that he suspects the third-party claim is fraudulent and Watford hasn’t acted in his best interests.

Our investigator looked into his case and said she thought Watford had acted fairly. Mr E had bought cover for SDP use and had suffered a loss while travelling to work. So our investigator thought there was no cover under the policy, and that Watford had acted correctly in dealing with the third-party’s claim and sending the bill to Mr E. She said she didn’t think Watford needed to update him because there was little to update him about over the years since the collision.

As Mr E didn’t agree with the view, his complaint has been passed to me for a final decision.

I issued a provisional decision upholding Mr E’s complaint:

*I’m intending to uphold Mr E’s complaint and require Watford to settle his claim according to the terms and conditions of his policy wording. I’ll explain why.*

*The accident happened when Mr E was on his journey to his place of work, so Watford said*

*that Mr E had breached the terms and conditions of his policy and that it was entitled to decline the claim. In declining to cover Mr E's claim, Watford adopted the position of 'Article 75 insurers'. What this means is Watford will settle the third party's claim, but will recover its costs from Mr E.*

*It's clear that Mr E hadn't changed the level of use needed when he'd renewed his policy, so his policy didn't cover commuting and he didn't have adequate cover in place for his journey.*

*The relevant law here is the Consumer Insurance (Disclosure and Representations) Act 2012 ("CIDRA"). CIDRA requires consumers to take reasonable care not to make a misrepresentation when taking out a consumer insurance contract (a policy).*

*Firstly, I have to decide if there has been a misrepresentation and this is judged by looking at the question Mr E was asked and considering what a reasonable response would be.*

*I've been provided with a screenshot of the system questions from when Mr E originally took out his policy. The question asked of Mr E was "What do you use your car for?". There are icons with choices including "Social, Domestic and Pleasure (SDP) only", "Social, Domestic, Pleasure and commuting (SDPC)" and "SDPC and Business Use".*

*And I can see that he chose the option saying he wanted "Social, Domestic and Pleasure" use on his policy. There's an explanation of this option close by.*

*It appears clear to me that when Mr E first took out his policy, he likely correctly said that he only needed cover for SDP. But when his policy renewed, or his use of his car changed, he didn't update this use to include cover for commuting. He was then provided with a copy of his insurance policy documents for him to check and he failed to do this correctly.*

*So, I am satisfied that he failed to take reasonable care in selecting the wrong cover for his needs.*

*Despite Mr E having given the wrong details to Watford at renewal, for it to take any action Watford would have to show that having the incorrect information made a difference to it. If Mr E's misrepresentation did make a difference, for example by changing the premium, then that would be a qualifying misrepresentation.*

*But Mr E found that he could add commuting to his policy at no extra cost. And if there isn't a qualifying misrepresentation under CIDRA, an insurer can't take any action at all. What this means is that, even though Mr B gave Watford the wrong information, it can't decline to deal with the claim.*

*So I propose to require Watford to handle Mr E's claim and the third party claim as being covered under his policy.*

*It's my understanding that Mr E's car suffered some slight damage from the collision, and my decision means that he can ask Watford to cover the repairs if he wishes, subject to the remaining terms and conditions of his policy.*

*In his approach to this service Mr E has talked about his increased premiums since the accident. It's likely his premiums have been higher because he had an 'open' claim and/or because it was likely he'd be deemed at fault for the collision. I can't see that Watford's actions would have reasonably affected that outcome.*

*Mr E has also complained about how Watford dealt with the claim, including its investigation of it. I can see from his evidence that he is frustrated by the costs incurred by Watford during*

*the four years since the collision happened. I haven't been provided with a copy of Watford's policy wording, but these normally contain clauses to the effect that it can handle and settle the claim as it wishes. This is normal in the insurance marketplace and I think it's fair that Watford has done this here. I do appreciate Mr E's frustrations, but I hope by upholding his complaint about the settlement of the claim he will understand that he's no longer being asked to pay for the costs incurred.*

*It's clear to me that Watford should have looked at Mr E's claim more in line with this service's approach. I think it's also fair I say that its approach has caused distress and inconvenience to Mr E over an extended time and this continues as Watford has been trying to collect the £16,000 from him while his complaint passes through this service. I've thought carefully about this and I think the appropriate level of compensation is £300.*

### **Responses to my provisional decision**

Both parties accepted my provisional 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.

As both parties accepted my provisional decision, my final decision and reasoning remain the same as my provisional decision.

### **My final decision**

It's my final decision that I uphold this complaint. I require Watford Insurance Company Europe Limited to:

- Deal with the claim in line with Mr E's policy terms and conditions.
- Pay Mr E £300 compensation in total for his distress and inconvenience caused by its handling of his claim.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 5 April 2024.

Richard Sowden  
**Ombudsman**