

The complaint

Mrs M complains that Watford Insurance Company Europe Limited (Watford) cancelled her motor insurance policy when she came to make a claim, saying that she hadn't given correct information when she took out the policy. References to Watford include other organisations and individuals acting on its behalf.

What happened

Mrs M had motor insurance underwritten by Watford. She was involved in an accident and made a claim on her insurance. Watford decided not to pay her claim and cancelled her policy because she had said she was the registered keeper of the vehicle when she wasn't. In fact a member of Mrs M's family was the registered keeper. The family member had bought the car as a gift for Mrs M but because the car was bought on finance they were unable to put it in her name until the finance was paid off.

Watford said that this was a misrepresentation under the Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA). Watford said it considered that Mrs M had made the misrepresentation recklessly, not caring if it was true or not. Watford said that under CIDRA if it wouldn't have entered into the contract with Mrs M it would be entitled to avoid the contract, refuse to pay any claims and retain the premiums. So Watford refused to pay the claim.

Mrs M wasn't happy about this and complained to Watford. Watford said if Mrs M had answered the questions correctly it wouldn't have offered her a policy because she didn't have an 'insurable interest' in the car. Watford said it would only offer insurance to the registered keeper of the car or their spouse, and that the only acceptable owner would be the policyholder, their spouse or a lease company. So Watford said it was entitled to decline the claim and cancel the policy.

Mrs M wasn't happy with this response and complained to this service. Our investigator upheld her complaint. He said that because the questions asked "*Are you (or will you be)*" the owner and registered keeper of the car, Mrs M had answered correctly and there had been no misrepresentation. The investigator said Watford should reimburse the sum Mrs M paid to repair her car (plus interest), remove any cancellation/voidance marker from the Claims and Underwriting Exchange (CUE), give Mrs M a letter explaining the voidance was a mistake which she can show to other insurers, and pay her £300 for the distress and inconvenience caused.

(CUE is a database of motor, home, personal injury and travel insurance claims/incidents. Not all insurers are signed up to CUE, but the majority are. If an insurer is signed up to CUE, it will make a record of any incident it's made aware of and whether it leads to a claim or not. Insurers can view the information on CUE when considering offering a policy to a consumer.)

Mrs M was happy with the investigator's suggestions but Watford didn't agree, 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.

I'm upholding Mrs M's complaint. I'll explain why.

CIDRA potentially applies if a consumer answers a question incorrectly when taking out an insurance policy. This may be what is called a misrepresentation. CIDRA says a consumer should take reasonable care not to make a misrepresentation when taking out a policy. There are a number of actions an insurer can take if it establishes the consumer has misrepresented something, including cancelling the policy.

However the first step is to establish if there has actually been a misrepresentation. If there's been no misrepresentation, there's no need for me to consider CIDRA further.

Mrs M took out the insurance policy online. The relevant questions she was asked were:

"Are you (or will you be) the legal owner of this car ?"

"Are you (or will you be) the registered keeper of this car ?"

There is a drop-down menu for each question where you can only answer "Yes" or "No". Mrs M answered "Yes" to both questions. She says she did so because she would become the legal owner and registered keeper of the car once the finance was paid off and the family member transferred the car to her. This was due to happen within the 12-month term of the policy. So Mrs M's answers to these questions were correct.

Watford says because the previous question was *"When did you purchase the car ?"* and the only possible answers were a month and a year or *"Not bought car yet"* it was clear that the wording *"or will you be"* in the next questions relate to the answer *"Not bought car yet"*. Watford says that this is because people will carry out insurance searches on potential purchases. However it didn't say here that you can't take out insurance for a car you don't own. And Mrs M couldn't have said in answer to the question that someone else had bought the car as this option wasn't available. She thought she was doing the right thing by inputting the date the car was purchased for her.

So I don't think Mrs M made a misrepresentation when taking out the policy. Therefore it follows that Watford shouldn't have cancelled the policy, and it should settle her claim.

My final decision

For the reasons given above, I'm upholding Mrs M's complaint. I require Watford Insurance Company Europe Limited to reimburse Mrs M the amount she paid to repair the car plus interest at 8% simple from the date she paid for the repairs to the date of settlement.

If Watford Insurance Company Europe Limited considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mrs M how much it's taken off. It should also give Mrs M a certificate showing this if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

I also require Watford Insurance Company Europe Limited to remove any cancellation/voidance markers from CUE and any other database, give Mrs M a letter which she can show to other insurers explaining the voidance was a mistake, and pay her £300 for the distress and inconvenience caused.

For the avoidance of any doubt, as the policy shouldn't have been cancelled, Mrs M shouldn't have to pay anything to Watford Insurance Company Europe Limited, for example, for premiums for the remainder of the policy.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 10 October 2022.

Sarah Baalham
Ombudsman