

## **The complaint**

Mrs F complains about how Watford Insurance Company Europe Limited handled her claim when her car was damaged and that the car was written off without her consent.

The complaint has been brought to our service by Mrs F's husband on her behalf. For ease of reading, I'll refer to all submissions as made by Mrs F and all correspondence as being between Mrs F and Watford.

## **What happened**

In August 2020 the rear windscreen of Mrs F's car was damaged when her car was vandalised. She has insurance for her car with Watford and made a claim on her policy. Watford arranged for her vehicle to be repaired. When it was inspected Mrs F was told that the car's roof needed replacing as there was glass imbedded in it.

The roof repair was carried out by a main dealer, rather than Watford's approved repairer. And when the car was returned to the approved repairer this was with instructions that the water seal around the rear windscreen needed replacing. But this wasn't done before the car was returned to Mrs F.

After the car was returned to her in September 2020 Mrs F says it was parked on her drive and she didn't use it for about a month. When she did go to use it, in around October 2020, the car smelt musty and the boot was soaking and mouldy. This happened because water had leaked into the car during heavy rain due to the missing water seal.

Mrs F was advised to return the car to the approved repairers who provided a courtesy car while further repairs were carried out.

In mid-December 2020 Mrs F was told that her car was ready for collection. Mrs F was unwilling to collect it without assurances that sensitive electrical equipment in the boot of the car, such as the engine management system, hadn't been damaged and that the car was safe.

On 29 December 2020 Mrs F contacted Watford to advise them that she wasn't happy to accept the car back, as she was concerned about the integrity of the vehicle following the water damage. Watford agreed that the car should go to a main dealership for a full inspection. And they arranged a hire car for her while investigations were ongoing.

On 18 February 2021 Watford received the diagnostic assessment on the car which didn't identify any faults. Mrs F remained unhappy about the integrity of the car, as she wasn't satisfied that the checks carried out had covered the electrical equipment in the car's boot.

As Mrs F hadn't agreed to accept the car back, Watford decided to handle her claim in a different way. They treated it as a constructive total loss, where the cost of repairs didn't exceed the value of the car, but there were concerns about the integrity of the vehicle.

Mrs F's policy doesn't cover the provision of a hire vehicle if her car has been deemed a total loss. But due to what had happened Watford agreed to her keeping the hire vehicle until her claim was settled.

On 3 March 2021 Watford received their engineer's report which valued Mrs F's car at £20,380, as a constructive total loss. On 15 March 2021 they contacted Mrs F to request the documents they needed to validate her claim. Mrs F responded saying she was confused as the valuation didn't cover the outstanding finance on her car.

Watford replied saying they'd pay the market value for her car. And any shortfall between this and the outstanding finance would be for her to settle with the finance company.

Watford made the decision to settle the claim on 16 April 2021 when they hadn't been able to reach an agreement with Mrs F about the value of her car. They made a payment to the finance company on 30 April 2021 and took ownership of the car. Mrs F was unhappy with this as it left her without a car. She wanted Watford to clear the outstanding balance due on her finance agreement and provide her with a replacement car. She said this would place her in the position she'd have been in had errors not been made when her car was being repaired.

Mrs F is also unhappy that the belongings she'd left in the car were lost, as the storage company sent them to the wrong address. She says that there were several high value items in the car and she's unhappy that Watford have asked for proof of ownership of these items and wouldn't allow her to retrieve these herself.

Mrs F raised a complaint with Watford. They said when she advised them she was concerned about the integrity of the car, they'd arranged a diagnostic assessment. Despite this not showing any faults, she remained unhappy, so they arranged to deal with the car as a constructive total loss. They accepted that it was their appointed repairers' failure to fit the water seal to the rear windscreen that had led to the car being damaged and written off. And they apologised for this.

They said that under the terms and conditions of her policy they were settling her claim by paying the cost of her loss. Which was the market value of her car. And she wasn't entitled to a replacement car, as her car didn't fit the criteria for a new car replacement under section one of her policy.

Watford accepted that when they provided Mrs F with a breakdown of the settlement payment, they failed to take into account that she'd already paid her policy excess to the repairers and apologised for this. They also apologised for not contacting her before payment was made to the finance company, and for not advising her that as settlement had been agreed she was no longer entitled to a hire vehicle. But they said they weren't prepared to meet any further hire costs she incurred.

Mrs F had contacted Watford on 22 April 2021 asking them to return her car in the condition it was in prior to it being damaged in August 2020. Watford said this wasn't possible and the reason the car had been written off was because she'd indicated, since December 2020, that she wasn't happy to have it back as she was concerned about its integrity. And Watford said that her request that they clear the finance on her vehicle and pay for a new car, wasn't possible and wasn't a reasonable request. They said were meeting their obligations under her policy, by settling her claim on a total loss basis based on the market value of her car.

To resolve matters Watford said they'd clear the outstanding finance in full and offered £250 compensation for breakdowns in communication and not providing full answers to questions

Mrs F had raised.

Mrs F didn't accept Watford's response and complained to our service. Our investigator considered the case and provided his opinion.

Before he provided his opinion our investigator asked Watford for an update on the items Mrs F said had been left in her car and hadn't been returned to her. Watford advised him that they'd sent Mrs F an inventory of the items recovered from the car by their storage agents in July 2021, and again in September 2021. They'd asked her to provide a full description of the items she says were in the car, and proof of purchase. And in November 2021 they'd told her that once they had this evidence, they'd review it and look to reimburse her. But she'd not responded to them.

Our investigator first considered the quality of repairs and Watford's decision to write off the car. He said that Mrs F's policy gave Watford the option to decide how they'd deal with claim if her car was damaged. They initially arranged for the car to be repaired, which was what he'd expect them to do.

And when Mrs F said she wasn't happy that the car was safe, after the further repairs were completed, he thought it was reasonable for Watford to arrange for a main dealership to complete diagnostic testing. And despite Mrs F's view that the tests carried out were incomplete, he also thought it was reasonable for Watford to accept the report's findings that the car had no faults.

Mrs F's policy states that any repairs done through their approved repairers are guaranteed for five years and parts are guaranteed for the time she owns the car. So our investigator was satisfied Watford had taken appropriate steps to ensure the car was safe. And to provide assurances that if problems arose with the car, these would be covered.

As Mrs F wasn't satisfied with the repairs and wouldn't accept the car back, Watford made the decision to write it off. Our investigator thought this was reasonable as they'd done all they could to repair the car before taking this step.

After the car had been written Mrs F told Watford she wanted it back. Our investigator said this wasn't possible as it had already been declared a total loss, so it had become Watford's property.

As the car had been bought on finance it wasn't Mrs F's property until the finance had been paid in full. So our investigator said Watford couldn't return the car to her without the consent of the finance company which was never provided. Watford had told Mrs F this on 22 April 2021.

Our investigator then considered Mrs F's complaint about Watford withdrawing the provision of a courtesy car once her car had been declared a total loss. Her policy says a courtesy car will be provided while her vehicle is being repaired by one of their approved garages. Mrs F was provided with a courtesy car from August 2020 to April 2021, apart from a few weeks in September 2020 when her car was first returned to her.

Because the further repairs had been completed, our investigator said Watford weren't obliged to continue to provide a courtesy car after 28 January 2021, when it was confirmed the car had been tested at and faults were found. But they continued to provide a car until April 2021 when the claim was settled. And as her policy makes it clear that a courtesy car isn't provided if her car has been declared a total loss, he said it wouldn't be fair to expect Watford to continue to provide a courtesy car after the claim was settled.

Mrs F also wasn't happy with the amount Watford offered for her car. Our investigator said Watford had obtained an independent valuation of her car. This gave a valuation of £20,380. They'd also obtained two valuations using independent motor trade guide websites. These gave valuations of £18,095 and £18,366. As Watford had used the highest valuation, rather than an average of the three valuations, he felt they'd acted fairly.

Mrs F felt Watford shouldn't have paid the settlement figure directly to the finance company but our investigator said her policy terms and conditions provided for them to do this. She'd complained that the payment didn't cover her outstanding finance. Our investigator said this was a complaint about her GAP insurance, so he couldn't comment on this.

In respect of the items Mrs F says were left in the car and not returned to her, our investigator said the storage agents had been through the car and itemised the contents to send these to her. Unfortunately, these were sent to the wrong address and weren't received by Mrs F. Mrs F's policy limits the amount they'll pay for lost property to £150. And says documentary evidence may be required to substantiate a claim.

The list of items Mrs F has said were in the car includes a wedding ring she valued at £9,200 and other items valued at £1,800. The list prepared by the storage agents didn't include a ring. Watford have said they're prepared to consider the claim subject to receipt of documentary evidence. Which hasn't been provided.

Given the value of the ring our investigator felt it was reasonable for Watford to request documentary evidence. And he felt they'd dealt with issue of Mrs F's lost property fairly to date

Our investigator acknowledged that they'd been some mistakes and delays in the handling of Mrs F's claim by Watford. But he felt the £250 compensation they'd offered her for this was fair, so he didn't ask them to do anything more.

Mrs F wasn't happy with our investigator's opinion. As she said Watford hadn't treated her fairly and had failed to return her property which had been left in her car.

We asked her to provide further information about the impact of Watford's handling of her claim. She's told us that she needed a car to get to work, to take her elderly mother to hospital and doctor's appointments and to go shopping. And she didn't have a vehicle when Watford would no longer provide a courtesy car.

When the car was returned to her it was left outside her home, with the keys left on the exterior allowing for it to be stolen.

She had to continue to make her finance payments for seven months between her car being damaged and written off. This caused financial strain and family arguments and led to her separating from her husband. And this happened at a time when she was receiving treatment for cancer and didn't need any additional stress in her life.

She's also said that her belongings left in the car have never been returned. And Watford haven't offered any apology or reimbursement for these.

The case then came to me for a decision. I issued my provisional decision on 15 September 2022. And in it I said: -

*I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.*

*Mrs F's car shouldn't have been returned to her without Watford's approved repairer's having completed the repairs by fitting a water seal to the rear windscreen. But that's what happened, so I need to consider whether the actions Watford took from that point were reasonable, and in line with her policy terms and conditions.*

*When Watford were notified on the further damage to the car, they arranged for it to go back to their approved repairers who provided Mrs F with a courtesy car. This is what I'd have expected to happen. In December 2020 Watford were told that Mrs F wasn't prepared to accept the car back after the further repairs had been completed, as she was concerned about its safety. They arranged for a diagnostic report to be prepared by a main dealership. I think this was a reasonable step for them to take, to reassure Mrs F that her car was safe. And they arranged for her to be provided with a hire car until the report was received.*

*The report was received in February 2021 and didn't identify any ongoing faults with the car. At this point there was confirmation that the car was safe and could be returned to Mrs F. So Watford were no longer required to provide her with a hire car. Mrs F still wasn't satisfied that the car was safe and wanted assurances that if further problems arose with the car, she'd be covered for these.*

*Watford had arranged for Mrs F's car to be repaired as her policy required them to do. But, because of what had happened they decided to treat the car as constructive total loss. As their appointed repairers were responsible for the further damage to the car after the initial repairs had been completed. I think this was a reasonable approach for them to take. Particularly as Mrs F had made it clear she wasn't happy to take the car back, despite the findings of the diagnostic report. And Watford agreed to continue to provide her with a hire car until her claim was settled. Which is what I would have expected them to do.*

*From the emails passing between Mrs F and Watford it appears she initially accepted that her car had been written off, and only later when she was unhappy with the valuation placed on it, wanted it returned to her.*

*Having agreed that the car should be written off Watford arranged an independent valuation, which valued the car at £20,380. They obtained two further valuations and made their offer based on the highest of these, the independent valuation. In the event of the car being written off Mrs F's policy says she should receive 'market value'. Based on what I've seen I'm satisfied that Watford valued the car fairly.*

*It appears that Mrs F has misunderstood what Watford were required to do after her car was written off. In addition to receiving the market value for the car, which in this case was paid to the finance company, she expected Watford to provide her with a new car. Her policy does include 'New Car Cover' which states that Watford will, if the car is a total loss, replace it with a new car of the same make, model and specification. But this is only if set criteria are met, including the car being less than a year old. And Mrs F's car didn't meet these criteria.*

*So Watford weren't required to provide Mrs F with a new car. Once they'd paid the market value for the car to the finance company, they'd met their obligations under the terms and conditions of Mrs F's policy. And when Mrs F contacted them on 22 April 2021 asking them to return the car in the condition it was in before it was damaged in August 2020, this wasn't something they could do, or something I'd expect them to do at this point after the car had been written off.*

*In relation to Mrs F's personal belongings which she says were left in the car. Watford have advised her that this were sent to the wrong address by their storage agents and haven't been returned. Although her policy limits cover for lost items to £150 Watford have asked Mrs F for proof of purchase and have said they'll consider the claim on receipt of this. So it's*

*not correct that they've simply refused to return the items or cover their replacement value.*

*They've made it clear that they can't return the items and they've apologised for their agents sending them to the wrong address. The storage agents provided a list of the items recovered from the car and this didn't include an expensive wedding ring. Given the value of the items said to have been left in the car, a total of £11,000, I think it's perfectly reasonable for Watford to request proof of purchase or valuations for these items. Watford have said they'll consider this claim further on receipt of the documents they've requested. So if Mrs F wants to pursue this she needs to provide the evidence they've requested.*

*I've considered what Mrs F has said about having to continue to make the finance payments on her car while it was being repaired and while her claim was being resolved. The finance agreement was entered into between her and the finance company. And while I appreciate her frustration in not having use of the car she was paying for, Watford did provide her with a courtesy car or a hire vehicle until April 2021. So I don't think I can ask them to cover or contribute to her finance payments as this would result in her getting a double benefit. As she was provided with a replacement vehicle and the finance payments were paying down the cost of car and the amount due to the finance company.*

*Watford have accepted that they haven't got everything right in dealing with Mrs F's claim. Had their approved repairers completed the repair to the rear windscreen correctly, then her car wouldn't have ended up being written off. They accept that when they arranged for the car to be collected to go for diagnostic testing in January 2021, they didn't give Mrs F notice of this, so she didn't have the opportunity to remove her personal effects from the car.*

*They also accept that when dealing with the settlement they failed to take into account that Mrs F had paid her policy excess to the approved repairers, and initially deducted this from the settlement figure. And that when the payment had been raised to send to the finance company, they didn't let Mrs F know this had been done or that they'd be arranging for the hire car to be collected.*

*Watford also told Mrs F that the claim had taken longer to resolve because of a breakdown of communications on their part. And that on several occasions questions she's raised hadn't been answered fully, or at all.*

*Mrs F has told us about the impact this has had on her and I understand that she was dealing with her claim at a time when she wasn't well and there were other family pressures.*

*Given all that Watford got wrong I don't think the £250 she was offered was sufficient to compensate her for the distress and inconvenience the way her claim was handled has caused. Although Watford weren't to blame for Mrs F's personal circumstances, I think their mistakes exacerbated what was already a very stressful time for her. Taking everything into account I think £750 is the appropriate figure, inclusive of the £250 Watford have offered already.*

*So my provisional decision was that I partially upheld Mrs F's complaint.*

*Watford haven't responded to my provisional decision.*

*Mrs F has said that I didn't address the issue of her property left in the car which had not been returned. We replied to Mrs F advising her that this issue had been addressed in my provisional decision. We reminded her that Watford had requested information about her lost property which they say she hasn't provided. So to pursue this she was told she needed to provide the evidence and information they'd requested. And we provided her with details of how to contact Watford with the information they'd requested about her lost property.*

She's also said that she needed more time to provide further evidence and she didn't feel that she'd benefitted for bring the case to us, so she was considering obtaining legal advice. We told Mrs F that we needed to be fair to both parties and bring this case to a conclusion. Mrs F was given until 21 October to confirm whether she wished to withdraw her complaint, or I'd proceed and issue 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.

Watford haven't responded to my provisional decision. Mrs F hasn't provided any further evidence she wants me to consider or confirmed that she wishes to withdraw her complaint. So I see no reason to review the findings set out in my provisional decision, which partially upheld Mrs F's complaint.

### **My final decision**

For the reasons set out above and in my provisional decision, my final decision is that I partially uphold Mrs F's complaint about Watford Insurance Company Europe Limited.

And to put things right I require them to pay her £750 compensation for the distress and inconvenience their handling of her claim has caused. This figure is inclusive of the £250 they'd previously offered her.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs F to accept or reject my decision before 21 November 2022.

Patricia O'Leary  
**Ombudsman**