

## The complaint

Mr G thought Watford Insurance Company Europe Limited (“WIC”) unfairly declined his claim and cancelled his motor insurance policy.

## What happened

Mr G made a claim when he reversed into a third-party vehicle. When WIC validated the claim, it determined Mr G had misrepresented his occupation when renewing his policy. WIC declined his claim and cancelled his policy.

Mr G thought this was unfair. He said he was a van driver when he took out the insurance – when he renewed his policy he didn’t notify WIC of a change in occupation. Mr G’s new role was working as a chef for a catering company providing services to the film industry. He didn’t think this presented his insurer with any greater risk.

Our investigator decided to uphold the complaint. He thought Mr G had made a careless misrepresentation. He thought WIC should re-instate the policy reflecting Mr G’s correct occupation as a chef – he thought WIC should re-consider the claim under the remaining terms and conditions of the policy. WIC disagreed, so the case has been referred to an ombudsman.

## My provisional decision

I made a provisional decision on this on 4 September 2023. I said:

*“WIC declined the claim and cancelled the policy due to a misrepresentation, so I have considered the merits of this complaint from this perspective.*

*The relevant law in this case is The Consumer Insurance (Disclosure and Misrepresentation) Act 2012 (CIDRA). This requires consumers to take reasonable care not to make a misrepresentation when taking out a consumer insurance contract (a policy). The standard of care is that of a reasonable consumer.*

*And if a consumer fails to do this, the insurer has certain remedies provided the misrepresentation is - what CIDRA describes as - a qualifying misrepresentation. For it to be a qualifying misrepresentation the insurer must show it would’ve offered the policy on different terms or not at all if the consumer hadn’t made the misrepresentation.*

*CIDRA sets out several considerations for deciding whether the consumer failed to take reasonable care. And the remedy available to the insurer under CIDRA depends on whether the qualifying misrepresentation was deliberate or reckless, or careless.*

*So, I’ve considered Mr G’s circumstances in respect to CIDRA.*

*Was there a misrepresentation?*

*I think WIC has been fair in saying there was a misrepresentation. Mr G has acknowledged this. He didn’t inform WIC when his job changed, so this was a misrepresentation – he*

*could've done this mid-term or when his policy was renewed. But he failed to update WIC on both occasions.*

*Did the consumer take reasonable care?*

*I don't think Mr G did show reasonable care. The policy clearly sets out that any changes in personal circumstances should be communicated to WIC. When Mr G renewed his policy he was asked if there were any changes, but he didn't notify WIC.*

*Did it make a difference to WIC?*

*WIC has argued the misrepresentation was a qualifying one. At the time of the accident, Mr G wasn't working as a van driver he was working for a catering company who specifically provided food for the film industry.*

*WIC has said if it had known Mr G's new occupation it wouldn't have insured him. This is important. If WIC can show it wouldn't have insured somebody who works in catering within the film industry, then I'd say it would've been fair in declining the claim and cancelling the policy.*

*WIC has shared its underwriting criteria. It says this proves it wouldn't have insured Mr G had it known. I've checked the underwriting criteria and it says it wouldn't insure somebody who works in "film manufacturing, film processing, film production or films". WIC has said it wouldn't insure anyone who worked in the film industry – they've used the example as a cameraman that they wouldn't insure.*

*It may have been WIC's intention not to insure anyone related (in any capacity) to the film industry, but I don't think its underwriting criteria is clear on this point. Mr G is currently working for a catering company as a chef. The position isn't a permanent one, the catering company is able to terminate the contract without reason with two weeks' notice period.*

*I think a more appropriate categorisation of role for Mr G would be chef or catering. So, whilst I appreciate it may make a difference to the terms WIC may have offered, I don't think it's fair to say Mr G worked in the film industry, so I don't think it's fair it has said it wouldn't have offered him a policy. I don't think the underwriting criteria supports this statement. However, it is a qualifying misrepresentation, as insuring a chef could have a different risk associated to it compared to a van driver.*

*Was the misrepresentation deliberate or reckless, or careless?*

*I don't think Mr G has tried to mislead WIC. I think he just didn't check his policy details at the time of renewal and probably wasn't aware of the importance of updating all details. Therefore, I would say Mr G was careless in making the misrepresentation. However, as Mr G wasn't reckless, I uphold this complaint.*

*What remedy is available to WIC given there has been a claim?*

*As the qualifying misrepresentation was careless, and WIC hasn't said that it wouldn't have offered the policy to individuals who are chefs or in catering, I intend WIC to re-instate the policy. It needs to consider whether the policy terms would've been different for Mr G as a chef / caterer. It should then re-consider the claim against these terms (not as if he was in the film industry).*

*I think the impact of WIC's decision on Mr G would have been significant. He's said how the financial consequences he's been facing has placed unnecessary pressure on him and it's impacted his wellbeing. The whole situation will have inconvenienced him and used up his*

*time. Therefore, I intend WIC pay Mr G £400 in compensation, for the distress and inconvenience caused”.*

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

Mr G accepted my provisional decision. He didn't have anything further to add.

WIC disagreed with my provisional decision. It has explained again the company which Mr G was contracted to provide catering services specifically to the film industry.

### **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 don't feel WIC has provided any new information. As I said in my provisional decision, I think catering is a better description of the business Mr G carries out. I don't think the underwriting criteria WIC has provided is specific enough to say it wouldn't have offered insurance. Therefore, I don't see any reason to change my decision.

### **My final decision**

My final decision is I uphold this complaint. I require Watford Insurance Company Europe Limited to:

- Re-instate the policy from the start of the term
- Consider the claim in line with the revised terms and conditions of the policy appropriate to a chef / caterer
- Pay Mr G £400 compensation\* – for distress and inconvenience.

\* Watford Insurance Company Europe Limited must pay the compensation within 28 days of the date on which we tell it that Mr G accepts my final decision. If it pays later than this it must also pay interest on the compensation from the date of my final decision to the date of payment at 8% a year simple.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 17 October 2023.

Pete Averill  
**Ombudsman**