

The complaint

Mr J complains about how his insurer, Watford Insurance Company Limited (Watford) dealt with a claim under his motor insurance policy for an accident.

References to Watford in this decision include their agents.

What happened

In October 2020 Mr J was involved in an accident in which he lost control of his vehicle and hit a garden wall. Mr J was arrested at the scene by the police and charged with drink driving. Given the circumstances, Watford said they wouldn't provide cover for the damage to Mr J's vehicle and would be held at fault for the accident. They also said they wouldn't indemnify him for any claim arising from the incident, including from a third party and would pursue Mr J for any payments they were obliged to pay by law arising from the accident.

In January 2023, Watford contacted Mr J to say a third party claim been made against him and as they wouldn't provide cover for the accident, they were obliged under the Road Traffic Act to deal with the claim against Mr J on the best possible terms. The circumstances of the accident indicated Mr J was at fault and they had settled the claim.

Under the policy terms and conditions, they were entitled to recover the costs of settling the claim from the third party from Mr J, saying he owed them £3,911.71. They said the sum comprised vehicle damage costs (£5,879.60) and policy excess (£300). From these costs, Watford deducted the premium they'd retained following their avoidance of the policy (£2,267.89) to arrive at the net amount owed. Receiving no contact from Mr J, Watford wrote to him again in March 2023 advising the sum was still due and he could either agree a payment plan on a weekly or monthly basis or pay the full amount.

Mr J was unhappy at being contacted by Watford so long after the accident and being told he owed them the costs they said they'd incurred in settling the third party claim. So, he complained to Watford.

Watford upheld the complaint in part. In their final response, they referred back to telling Mr J at the time of the accident they wouldn't provide cover for the damage to his vehicle and would be held at fault for the accident. And that they wouldn't indemnify him for any claim arising from the incident, including from a third party and would pursue him for any payments they were obliged to pay. They referred to the policy wording on their right to recovery. They also referred to their subsequent correspondence in January and March 2023.

But Watford acknowledged their Third Party Claims Department should have told Mr J about the claim received from the third party, and they had no record of this being done. Watford apologised for the frustration this caused Mr J, but noted under the Limitation Act 1980, claims for damage to property could be made up to six years after the incident and personal injury claims could be made up to three years.

Watford subsequently wrote to Mr J in November 2023 to say he'd agreed a payment plan with them in March 2023, of £100 a month. But the last payment was received in September 2023, so he'd missed a payment. They requested he reinstate the plan.

Mr J then complained to this Service. He said he hadn't been provided with a breakdown of what he owed and why. While he hadn't been affected financially at the point of his complaint, the situation was stressful for him as he was worried he'd have to pay the sum Watford said he owed. He wanted compensation for what had happened and for the length of time it had taken for Watford to tell him about the amount they said he owed them. If he'd been told about the claim and the amount Watford said he owed, he could have set money aside to cover the amount. He said he'd been told by a Watford call handler he should have been told about the claim – but he hadn't been. And he hadn't agreed the payment plan to repay the amount, which Watford said he had agreed (and had missed a payment).

Our investigator upheld the complaint. She noted Watford had chased the third party insurer during 2021 and 2022, but Mr J wasn't updated about the situation during this time and the first he was aware of the third party claim and Watford seeking to recover the costs was in January 2023. And the information on the costs provided was confusing – referring to vehicle damage, when the accident involved Mr J hitting a wall. On the payment plan, Watford had since clarified Mr J hadn't set up a payment plan and they'd confused Mr J with another customer of the same surname who had a payment plan. The investigator thought Watford should agree a payment plan with Mr J.

Given these points, the investigator didn't think Watford had provided Mr J with the standard of service he should expect. She thought Watford pay Mr J £300 in compensation.

Watford disagreed with the investigator's view and requested an Ombudsman review the complaint. They didn't feel the amount of compensation recommended for the lack of updates provided to Mr J about the third party claim was warranted.

Mr J also requested an ombudsman review the complaint, saying he still hadn't had a breakdown of the costs he was being asked to repay Watford.

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.

My role here is to decide whether Watford have acted fairly towards Mr J.

The key issue in Mr J's complaint is what he sees as the length of time it took for Watford to tell him about the third party claim and the consequent costs Watford sought to recover. He says he hasn't been provided with a breakdown of the costs they are seeking to recover. He says he hasn't agreed a payment plan with Watford or missed a payment under it. Watford acknowledge they should have told Mr J sooner about the third party claim, before contacting him to request payment of the costs of the claim. They say they told Mr J at the time of the accident that because he was driving under the influence of alcohol (drink driving) they deemed him at fault for the accident and wouldn't cover any claim he made and seek to recover from him any third party claim costs they were obliged to settle.

Looking at the sequence of events, there's no dispute Mr J was breathalysed at the scene of the accident and found to be over the legal limit for alcohol. In those circumstances, it was reasonable for Watford to tell Mr J they wouldn't cover any claim he made (and avoid his policy). Watford have also provided evidence of their telling Mr J they wouldn't indemnify him against any third party claim they might receive and have to settle – as Mr J was held to be

at fault for the accident. The policy terms and conditions clearly provide for this, as Watford set out to Mr J.

So, I've concluded it was reasonable for them to seek to recover the costs they'd incurred from the third party insurer.

I've seen Watford's claim notes and there's record of the third party insurer contacting them shortly after the accident in 2020, giving notice of their intention to recover their costs. There are subsequent exchanges and notes about the costs claimed by the third party insurer through 2021 and 2022, with Watford seeking clarification of the costs and the sum claimed. This meant Watford didn't settle the claim (in the amount set out above) until October 2022. The claim notes then record Watford confirming in January 2023 the value of the premiums they'd retained when they avoided the policy, which they offset against the costs they paid the third party insurer to arrive at the sum they said Mr J owed them (£3,911.71).

The claim notes then record Mr J contacting Watford in March 2023 to discuss the amount Watford said he owed them. The notes record Mr J saying he wasn't made aware of the third party claim – and the call handler noting this appeared to be the case. The notes also record Mr J asking for a breakdown of the third party claim costs and a discussion about the costs and the amount he owed as a result.

However, the breakdown of costs provided by Watford, which I assume was what they discussed with Mr J when he contacted them in March 2023, only includes a figure of £5,879.60 for what are described as 'vehicle damage costs' and £300 for 'policy excess'. Given the nature of the accident (Mr J hit a wall) then the former could be misunderstood – it seems unlikely to have been damage *to* (my emphasis) a third party vehicle. Rather it is likely to be the damage *from* (my emphasis) Mr J's vehicle to the third party wall. And the 'policy excess' would be the policy excess under the third party's insurance policy.

I don't think it likely Watford would have settled the costs of the claim unless they were satisfied they were liable for them, both what was being claimed for and the amount. There's reference in Watford's claim notes to the wall Mr J hit being substantial, which would indicate the costs of repairing (if not rebuilding) the wall would have been significant. But I can understand why Mr J feels he hasn't been given a clearer and more detailed breakdown, which would have added to his frustration at not being told about the claim (and the amount Watford said he owed them) until January 2023.

On the issue of Mr J not being told about the claim until January 2023, Watford acknowledge in their final response their Third Party Claims Department should have told Mr J about the claim received from the third party, but this didn't happen (there's no record of this in the claim notes). Watford have apologised for the frustration caused to Mr J. While they cite the time limits for claims being brought, this doesn't change the fact they didn't tell Mr J when they accept they should have done.

Given this, I've concluded Mr J would have suffered distress and inconvenience from not being aware sooner than he was. While the amount was uncertain whilst Watford were seeking clarification, the likely amount could have been indicated (without prejudice to the final amount) alongside Mr J being told sooner. It was possible the claim could have been reduced (or withdrawn) but I think the circumstances of the accident meant this was very unlikely. Being aware of the possible sum earlier would have enabled Mr J to make at least some provision for the sum when it was eventually confirmed and notified to him.

In his complaint to this Service, Mr J also says he never agreed a payment plan. During our investigation of Mr J's complaint, Watford confirmed they'd made a mistake by confusing Mr J with the payment plan for another customer with the same surname that did have a

payment plan. So, there wasn't a payment plan in place for Mr J (and his complaint to the Service followed his being told he had a payment plan and had missed a payment. I think this would have added to his frustration with Watford.

In the circumstances, I'd expect Watford to discuss and agree a payment plan with Mr J for the amount owed for the third party claim costs (assuming Mr J chooses the option).

Taking all these points into account, I'd concluded Watford haven't acted fairly and reasonably towards Mr J.

Having reached this conclusion, I've considered what Watford need to do to put things right. While they've apologised for not telling him about the third party claim sooner, I don't think this is sufficient given the conclusions I've reached about the frustration Mr J experienced from what's happened. Having regard to the guidelines published by this Service, I think Mr J has experienced some inconvenience and a lower level of distress. Considering all the circumstances of the case, I think £300 is fair and reasonable compensation for the distress and inconvenience he's suffered.

My final decision

For the reasons set out above, I uphold Mr J's complaint. I require Watford Insurance Company Limited to:

- Pay Mr J £300 in compensation for distress and inconvenience.

Watford Insurance Company Limited must pay the compensation within 28 days of the date on which we tell them Mr J accepts my final decision. If they pay later than this they 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 J to accept or reject my decision before 29 March 2024.

Paul King
Ombudsman