

## The complaint

W has complained that Watford Insurance Company Europe Limited has declined a claim following an accident involving a car under a commercial vehicle insurance policy taken out to cover vehicles belonging to it.

W is represented by Mr H, who is a director and Mrs H.

Any reference to Watford includes its agents.

## What happened

Mr H insured vehicles belonging to W under a policy with Watford. One of the vehicles (a car) was damaged in an accident on 6 May 2023 and Mr H submitted a claim for damage to it and indemnity against any third party claim.

Watford decided the car was a write-off, but it turned the claim down on the basis W breached the following endorsement, which was in the policy schedule:

SBSR_74	MONITORING REQUIREMENT	All installed cameras are to be monitored by D. This contract is between the Policyholder and D which must continuously be in force throughout the duration of this policy. All costs in relation to this contract are the responsibility of the Policyholder.
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Watford then disposed of the damaged car without Mr H's permission. Mr H complained about Watford's approach, but it wouldn't alter its position.

Mr H asked us to consider a complaint about the declinature of the claim and the fact Watford had disposed of the damaged car without his permission. One of our investigators upheld the complaint. She said Watford should pay W £800, plus interest, to cover the loss incurred as a result of it disposing of the damaged car. And £500 in compensation for the inconvenience caused by it doing so. Watford agreed with the investigator's view and issued a cheque to Mr H for the vehicle, interest and the compensation.

The investigator then issued a second assessment in which she said that it wasn't fair for Watford to rely on the abovementioned endorsement to reject W's claim. She explained her view was based on the fact there wasn't an endorsement on the policy that actually required cameras to be installed in the vehicles insured under it. And she said that Watford should settle W's claim under the policy by paying the market value of the damaged car, less the £800 it had paid to cover the loss to W as a result of it disposing of it. She also said Watford should still pay £500 in compensation for inconvenience to W. The investigator also explained that she was changing the name of the complainant in the case to W, as Mr H wasn't an eligible complainant. And because it was clear the policy was intended to be for W's benefit.

Watford did not agree with the investigator's second view. It said that it was informed by W's broker that all the vehicles to be insured under the policy would have cameras fitted to them. And that it acted on the presentation of the risk on this basis by adding the abovementioned endorsement. And it was not a fair presentation if the cameras were never installed or W never had any intention of installing them. It went on to say that it made it clear to the broker it would not have quoted for the policy without the cameras. So it believes the abovementioned endorsement is valid. It has also said it would have been prepared to provide the policy in the name of W; so it did not object to the change of complainant to W.

Our investigator went back to Watford and said it remained her view that the complaint should be upheld and that Watford should settle W's claim under the policy. Watford asked for an ombudsman's decision, so the complaint was referred to me.

I issued a provisional decision on 28 January 2025 in which I set out what I'd decided and why as follows:

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

*I should say first of all that I am satisfied the correct complainant in respect of this complaint is W. This is because W is a person for whose benefit the contract of insurance was taken out or was intended to be taken out with or through Watford. And it is clear when Mr H took the policy out he intended it to provide cover for vehicles belonging to W. And Watford has not suggested that W isn't entitled to claim under the policy it set up in Mr H's name.*

*Watford has effectively rejected W's claim by relying on its failure to comply with the abovementioned endorsement. But this endorsement only requires installed cameras to be monitored. It does not require cameras to be installed in insured vehicles that do not have them. In view of this, I do not consider Watford has demonstrated that W failed to comply with the endorsement. And I don't consider it would produce a fair and reasonable outcome to W's complaint if I were to allow Watford to rely on this endorsement to reject W's claim.*

*I've noted what Watford has said about W's failure to make a fair presentation of the risk. But it seems to be trying to make a representation made by W, or by its broker on its behalf, into a warranty. But the Insurance Act 2015 makes it clear that a representation made by the insured in connection with a non-consumer insurance contract is not capable of being converted into a warranty by means of any provision of the contract. And, in any event, as I've already said, there is no provision in the contract that requires cameras to be installed in the vehicles insured under it.*

*I also appreciate Watford would not have provided the contract to W if it had known cameras would not be installed in the vehicles insured under it. And it seems to be suggesting W failed to make a fair presentation of the risk in accordance with its obligations under the Insurance Act 2015 when Mr W took out the policy on its behalf. But, I do not consider Watford has shown this was the case. I say this because it is clear W intended to have cameras installed in its vehicles, but it was unable to get this done due to problems with the supplier. So I think the risk its broker asked Watford to insure was fairly presented by W's broker. The problem is that Watford did not endorse the policy to make it a requirement that cameras were installed either at the point the policy started or by a certain date. But this is not W's fault. Watford clearly made an error in drawing up the contract, but it is only entitled to rely on the terms of the contract it provided.*

*It therefore follows that I've provisionally decided that as part of the fair and reasonable outcome to W's complaint Watford needs to indemnify W in respect of its claim following the accident involving one of its vehicles on 6 May 2023 in accordance with the claim settlement*

*terms in the policy. I've also provisionally decided that Watford needs to pay interest on the amount due to W from one month after Mr H submitted the claim on its behalf to the date of actual payment. This is to compensate W for being without funds it should have had. Watford can deduct any amount it has paid already following its disposal of the damaged vehicle from the amount it pays in settlement of W's claim. Providing indemnity to W will also include Watford dealing with any third party claim against it as a result of the accident. I've also provisionally decided Watford should pay W £500 in compensation for the inconvenience it has experienced as a result of Watford unfairly turning down its claim.*

### **My provisional decision**

*For the reasons set out above, I've provisionally decided to uphold W's complaint against Watford Insurance Company Europe Limited and require it to do what I've set out above.*

I gave the parties until 11 February 2025 to provide further comments and evidence in response to my provisional decision.

Mrs H has said she and Mr H, on behalf of W, agree with my provisional decision. However she has pointed out I referred to W's claim being for a car, as opposed to a van in the first two sections of my provisional decision.

Watford has said it does not agree with my provisional decision. But, other than this, it has not provided any further comments or evidence.

### **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 did incorrectly refer to a van, as opposed to a car, in the first two sections of my provisional decision. This was an error for which I apologise. W's claim was of course for damage to a car, not a van.

As Mrs H has said she and Mr H, on behalf of W, agrees with my provisional decision and Watford hasn't provided any substantive further comments or evidence, I see no reason to reach a different conclusion on the fair and reasonable outcome to W's complaint to the one I set out in my provisional decision.

### **Putting things right**

For the reasons set out in my provisional decision, I've decided to uphold W's complaint and require Watford Insurance Company Europe Limited to do the following:

- Indemnify W in respect of its claim following the accident involving one of its vehicles on 6 May 2023 in accordance with the claim settlement terms in the policy. Watford can deduct any amount it has paid already following its disposal of the damaged vehicle from the amount it pays in settlement of W's claim. Providing indemnity to W will also include Watford dealing with any third party claim against it as a result of the accident.
- Pay interest on the amount due to W in settlement of this claim from one month after Mr H submitted the claim on its behalf to the date of actual payment. Interest should be at 8% per annum simple.\*

- Pay W £500 in compensation for the inconvenience it has experienced as a result of Watford unfairly turning down its claim. Watford must pay the compensation within 28 days of the date on which we tell it W accepts my final decision. If it pays later than this, it must also pay interest on the compensation from the deadline date for settlement to the date of payment at 8% a year simple.

\* Watford must tell W if it has made a deduction for income tax. And, if it has, how much it's taken off. It must also provide a tax deduction certificate for W if asked to do so. This will allow W to reclaim the tax from His Majesty's Revenue & Customs (HMRC) if appropriate.

### **My final decision**

I uphold W's complaint about Watford Insurance Company Europe Limited and require it to do what I've set out above in the 'Putting things right section.

Under the rules of the Financial Ombudsman Service, I'm required to ask W to accept or reject my decision before 6 March 2025.

Robert Short  
**Ombudsman**