

## **The complaint**

Mr D complains about the service he received from Watford Insurance Company Europe Limited (Watford) when dealing with a third-party claim.

## **What happened**

Mr D held car insurance underwritten by Watford.

In January 2022, Mr D's car was involved in a motor incident. Watford say that it became clear that the vehicle was being driven by a relative of Mr D.

It refers to a section of the policy that says it doesn't cover any claim if an accident happens while the car is being driven by a family member of Mr D's and where he doesn't actively assist in their prosecution.

Watford say they dealt with Mr D's claim originally, as they were given evidence of Mr D providing a statement to support the prosecution. He was paid approximately £26,000 for the total loss claim of his car.

Watford have also explained that they dealt with a third-party claim against the policy (as a result of the accident) under the Road Traffic Act 1988 (RTA). Costs were approximately £33,000.

Watford say they were subsequently made aware by the police that Mr D had withdrawn his statement. They said that, as he was no longer assisting with the prosecution (and they felt he had actually hindered it), he was in breach of the policy terms and conditions and would be looking to recover their costs in regard to his claim and the third-party claim.

Mr D was unhappy and brought his complaint to our Service for an independent review. He didn't think it was fair that he was being asked for this amount, stating that he had acted to assist with the prosecution.

Our investigator looked into it, he said that Watford were entitled under the terms and conditions of the policy to attempt to recover costs, and were acting fairly.

Mr D didn't agree, so the case has been passed to me to decide.

## **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.

Having done so, I agree with the outcome reached by the Investigator. I'll explain why.

Within the policy booklet, under 'what is not covered' it says:

*“Loss or damage to your car arising from it being taken by, or driven by, a person who was not an insured driver under the policy, but was a member of your family or household or any other person known to you, unless you can prove that the person intended to permanently deprive you of your car and you have actively assisted in the prosecution of the person(s).”*

Mr D hasn't disputed that his car was being driven by a family member who was not an insured driver under the policy. Watford have also said that Mr D hasn't proven the family member intended to permanently deprive Mr D of his car or that he actively assisted in their prosecution. Having considered the evidence, I agree with them.

I haven't seen anything on the file to suggest this car was taken with the intention of never giving it back to Mr D and I haven't seen anywhere he has suggested that. I also think Watford's conclusion that Mr D hasn't actively assisted with the prosecution is fair. Whilst I can see Mr D made an initial (but not immediate) allegation of theft and later provided a statement, the evidence (provided by the police) shows this was later withdrawn.

I am satisfied that based on the above, Watford are acting fairly in retrospectively declining the claim for Mr D (reducing his cover to third-party only). I am also satisfied that Mr D should have been reasonably aware of this through the term above.

It also says, under *“what you may be liable for”*:

*“If your claim is not accepted by us, you may be liable to repay costs already incurred by us. These may include, but are not limited to engineers' fees, vehicle recovery charges, and vehicle storage charges”.*

The Road Traffic Act (RTA) requires insurers to pay out third-party claims, even where the policyholder/driver concerned is not covered under the policy because of a policy term – as is the case here.

I am satisfied that Watford have a right to recovery for these costs (and his claim costs that they previously paid out) under the policy term above. I also think Watford are acting fairly in applying this term and initiating recovery in this case. I say this because the evidence shows Mr D has been inconsistent in actions – not providing a statement for some time, providing one and then retracting it. I don't believe he has assisted with the prosecution, hindering further action and other means of recovery for Watford.

Watford have settled with the third-party insurer prior to Court. In this situation, we would expect Watford to have asked Mr D to complete an indemnity form, allowing Watford to take over and settle the claim, prior to any recovery.

I haven't been provided with any evidence that this was done on this occasion. However, in settling, Watford have more likely than not sped up the claims process and reduced potential costs (including legal costs). So, I don't think Mr D has lost out by Watford not asking for a completed indemnity form as we would expect. I find Watford are entitled to recover the costs they have paid out to the third-party insurer.

I haven't gone on to consider whether the amount being recovered is fair (or whether Watford have acted fairly in attempting to reduce the liability), because I haven't seen anything to suggest Mr D has complained about that and given Watford a fair chance to reply.

In summary, Watford are entitled (and acting fairly) in recovering the costs from Mr D that they have paid out to him and the third-party insurer. Whilst they should have asked Mr D to

complete an indemnity form, he hasn't been disadvantaged by them settling on his behalf.

### **My final decision**

I don't uphold this complaint and I don't require Watford Insurance Company Europe Limited to do anything further.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 23 April 2025.

Yoni Smith  
**Ombudsman**