

The complaint

Mr E is unhappy that Watford Insurance Company Europe Limited ('Watford') didn't accept claims made under the personal accident section of a bike insurance policy he had the benefit of, after he was involved in a road traffic accident.

Although Mr E is being represented in this complaint, for ease, I've referred to him throughout.

What happened

The details of this complaint are well known to both parties, so I won't repeat them again here. I'll focus on giving the reasons for my 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 has an obligation to handle insurance claims fairly and promptly. And it mustn't unreasonably decline a claim.

The decision to decline the claim

Subject to the remaining terms of the policy, as a result of an accident, Watford will pay up to the financial limit in the policy terms:

- if the insured person receives an injury which causes the loss of any limb;
- for permanent total disablement (excluding loss of limbs) which prevents the insured person from engaging in any remunerative occupation and in the opinion of an appropriately qualified medical professional licensed to practice in the territorial limits, is unlikely to substantially improve.

Loss of limb(s) is defined as:

The loss by physical severance at, or above, the wrist or ankle or the permanent, total loss of use of an entire arm or leg. This can include the total, permanent loss of use by physical severance or not, of a limb below the wrist or ankle.

Loss of use is defined as:

The total and irrecoverable loss of use of a limb where the loss is continuous for 12 months and such loss of use is deemed permanent and beyond possibility of improvement on the authority of a consultant specialising in that area.

Permanent total disablement is defined as:

Disablement which entirely prevents the insured person from working in any business or occupation of any and every kind and which after a period of 12 months from the date of disablement, in the opinion of a consultant, shows no sign or ever improving.

I've seen a letter from Mr E's consultant peripheral nerve surgeon dated April 2023 which lists Mr E's injuries.

The letter reflects that Mr E has been left with debilitating and life changing injuries due to a road traffic accident in 2022 and that the function of his right arm will never return to normal.

It's said that Mr E has "long term sequelae with regards to the function of his right dominant upper limb" and that two nerve transfers had been performed that "potentially will give him back some function at the shoulder level in terms of external rotation of the shoulder and possible flexion at the elbow, should the nerve transfers be successful in reinnervating the rotator cuff and the biceps muscle..."

However, it could take 9 to 12 months to see any gain in function in the aforementioned muscles. And any improvement will involve "prolonged rehabilitation...and monitoring and feeding back with clinical assessment in clinic over the course of 2-3 years".

Further Mr E's GP's letter dated August 2023 reflects that Mr E's right arm "is disabled" and he'll never be able to return to his previous job.

I have a lot of empathy for Mr E's situation. I know he'll be very disappointed but based on the medical evidence I'm satisfied that Watford has fairly and reasonably concluded that it hasn't been established that Mr E has experienced a loss of limb or permanent total disablement as defined by the policy.

The medical evidence doesn't support that Mr E experienced a total and irrecoverable loss of use of a limb which is deemed permanent and beyond possibility of improvement by a specialist consultant, as required by the policy terms.

Further, although Mr E was medically retired from his job, the medical evidence doesn't support that Mr E's injuries have entirely prevented him from working in any business or occupation of any and every kind, and shows no sign or ever improving.

Mr E says that on many occasions he's asked for his injuries to be objectively assessed by a medical professional of Watford's choosing but this hasn't happened. However, it's for Mr E to establish his claim and that includes proving that he meets the relevant definitions for the claim to be established. So, I don't think Watford has acted unreasonably in this case by not referring him for an independent medical assessment.

Mr E is free to provide Watford with further medical evidence to review, in support of his claim and that the relevant definitions have been met under the policy terms.

Handling the claim

Watford accepts that there were service failings when handling the claim. It accepts that there were delays in progressing the claim, including delays in reviewing medical evidence. It apologised and offered Mr E £350 compensation.

I'm satisfied that Mr E was put to unnecessary upset at already difficult time because of these claim delays and he and his partner had to chase for updates. This would've been frustrating and unnecessarily stressful for Mr E, and he had to wait for an outcome to his claim for longer than he reasonably should've.

I'm satisfied that £350 compensation isn't enough to reflect the impact on Mr E at a time when he was vulnerable. I find that Watford should pay £500 compensation in total for distress and inconvenience, which it has agreed to do in response to our investigator's view.

Putting things right

I direct Watford to pay Mr E £500 compensation for distress and inconvenience. It can deduct £350 from this amount (the compensation offered in its final response letter) if this has already been paid to Mr E.

My final decision

I partially uphold this complaint and direct Watford Insurance Company Europe Limited to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 28 April 2025.

David Curtis-Johnson
Ombudsman