

The complaint

Mr W complains that Watford Insurance Company Europe Limited cancelled his motor insurance policy after he didn't disclose the named driver's previous motoring conviction. He's also unhappy with the outstanding balance he owes following the cancellation.

What happened

Mr W took out a motor insurance policy with Watford through an online comparison site. He was asked about all drivers' previous motoring convictions. Mr W disclosed his own. But he didn't disclose that of the named driver. Watford said this was reckless misrepresentation which entitled it to cancel the policy. Mr W was unhappy with this, the cancellation fees and with the increased cost of a new policy elsewhere. Watford reduced the balance outstanding on cancellation as a gesture of goodwill.

Our Investigator recommended that the complaint should be upheld. He thought Mr W's misrepresentation had been careless. He saw that Watford would have offered Mr W cover without the named driver on the policy. So he thought Watford had unfairly cancelled Mr W's policy.

He thought Watford should remove the cancellation marker and the remaining outstanding balance following cancellation. He thought it should provide Mr W with a letter stating that his policy had been cancelled in error. If the new insurer wouldn't rerate Mr W's premium, he thought Watford should refund Mr W's additional costs incurred for a policy without the named driver included, with interest. And he thought it should pay Mr W £100 compensation.

Watford replied that it thought the misrepresentation was reckless as Mr W should have checked the named driver's history. Watford asked for an Ombudsman's review, so the complaint has come to me for a final 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.

I can understand that Mr W feels frustrated that his policy was cancelled by Watford following its validation process. I can also understand that he would want this matter resolved as it's now lasted for about a year. I was sorry to hear of the impact the cancellation had on Mr W.

Watford cancelled the policy because of misrepresentation. So I'm satisfied that 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 has to show it would have offered the policy on different terms or not at all if the consumer hadn't made the misrepresentation.

CIDRA sets out a number of considerations for deciding whether the consumer failed to take reasonable care. One of these is how clear and specific the insurer's questions were. And the remedy available to the insurer under CIDRA depends on whether the qualifying misrepresentation was deliberate or reckless or careless.

If the misrepresentation was reckless or deliberate and an insurer can show it would have at least offered the policy on different terms, it is entitled to avoid the consumer's policy. If the misrepresentation was careless, then to avoid the policy, the insurer must show it would not have offered the policy at all if it wasn't for the misrepresentation.

If the insurer is entitled to avoid the policy, it means it will not have to deal with any claims under it. If the qualifying misrepresentation was careless and the insurer would have charged a higher premium if the consumer hadn't made the misrepresentation, it will have to consider the claim and settle it proportionately if it accepts it.

Watford thinks Mr W failed to take reasonable care not to make a misrepresentation when he stated in his application via a comparison site that the named driver had no motoring convictions within the previous five years. And I've looked at the question he was asked when he completed the application, and I agree he failed to take reasonable care.

This is because he was asked:

"Have any drivers had any motoring convictions, driving licence endorsements, or fixed penalties in the past 5 years?"

And he was provided with advice so that he could answer this question correctly. And so I think this was a clear question asked by Watford through the comparison site Mr W used.

Mr W disclosed his own convictions. But he said "None" for the named driver. He's explained that this was because he'd made an error. In fact, the named driver had one motoring conviction that he should have disclosed. And I think this means Mr W failed to take reasonable care not to make a misrepresentation when he said the named driver had no motoring convictions.

Watford has provided evidence from its underwriting guide which shows that if Mr W had not made this misrepresentation, it wouldn't have provided cover. This means that I am satisfied Mr W's misrepresentation was a qualifying one under CIDRA.

Watford thought Mr W's misrepresentation was reckless because it said he answered the question without regard for the accuracy of the information provided. It said this entitled it to cancel the policy under CIDRA.

But I don't think this was fair or reasonable in Mr W's particular circumstances and I'll now explain why I think this. Watford told us that if the named driver was removed from the policy, it would still have offered Mr W cover.

Our approach is that where the misrepresentation was deliberate or reckless, we're unlikely to say cancellation is unfair. But where the misrepresentation was careless, we often don't think this is fair.

Under CIDRA if the misrepresentation was careless, the insurer can only avoid the contract if it wouldn't have offered it on any terms. So we think if the insurer would have not insured the named driver, but would have still insured the policyholder, it can't avoid the policy, and instead should amend the terms by removing the named driver from cover.

I'm not persuaded that Mr W's misrepresentation was reckless. I think Mr W's misrepresentation was a careless misrepresentation. This is because Watford hasn't provided evidence to show that Mr W intended to answer the question incorrectly in order to gain an advantage. He disclosed his own convictions accurately. And he said he didn't know the named driver had any convictions. The named driver later told Mr W that he thought the conviction had expired as it was four years earlier.

I agree with Watford that it was for Mr W to check the accuracy of the named driver's information. But I don't agree that he should have reasonably known that the information was incorrect. So I'm satisfied the misrepresentation was careless.

As I've said above, if the qualifying misrepresentation was careless and the insurer would have offered cover for Mr W alone, it shouldn't have cancelled the policy. But it should have amended the terms by removing the named driver from cover. Therefore, I'm satisfied Watford wasn't entitled to cancel Mr W's policy in accordance with CIDRA and I think this produces the fair and reasonable outcome in this complaint.

When an insurer makes an error, as I'm satisfied Watford has done here, we expect it to restore the consumer's position as far as it's possible to do so, and we expect it to compensate the consumer for the impact of the error.

Mr W has a cancellation marker on his policy that is making the cost of other insurance prohibitive, and Watford should remove this and provide Mr W with a letter stating that his policy was cancelled in error.

Mr W had to take out more expensive cover elsewhere. And so I think Watford should reasonably compensate him for the increased cost he has had to pay unless the new insurer will re-rate his policy. And, as Mr W has been without his money for some time, then I think Watford should reasonably add interest to any refund paid by the other insurer or by Watford.

Mr W had to pay cancellation charges that he would otherwise have avoided. Watford has already waived some of these. And usually I would say that Mr W should pay for his time on cover. But Mr W has been harassed for payment of charges that have been unfairly applied. And to compensate Mr W for this trouble and upset, I think Watford should waive the outstanding balance owing following the cancellation and pay him £100 compensation.

Putting things right

I require Watford Insurance Company Europe Limited to do the following:

1. Remove the adverse cancellation marker against Mr W from any internal and external database where it's been recorded.
2. Remove any outstanding balance owed from the cancellation.
3. Provide Mr W with a letter stating that the policy was cancelled in error so that he can ask his new insurer to re-rate the policy to adjust the premium. If it won't do this, Watford should reimburse the difference in premiums, minus any additional premium Mr W would've had to pay if he had continued with Watford without the named driver, subject to policy details.
4. If any premium refund is issued by Mr W's current insurer, on receipt of proof of the refund, Watford should also pay Mr W interest on the refund at the rate of 8% simple per annum. This should be paid from the date the premium was charged until the date of payment. If Watford pays the difference in premium, interest should be paid from the date the additional premium was charged until the date of payment*.
5. Pay Mr W £100 compensation for the distress and inconvenience caused by its unfair cancellation of his policy.

*If Watford considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr W how much it's taken off. It should also give Mr W a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

For the reasons given above, my final decision is that I uphold this complaint. I require Watford Insurance Company Europe Limited to carry out the redress set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 15 September 2025.

Phillip Berechree
Ombudsman