

## **The complaint**

Mr H complains in his capacity as Director of a limited company, which I'll refer to as "T", about the way Watford Insurance Company Europe Limited ("Watford Insurance") has dealt with a claim made under T's fleet policy.

Any reference to Watford Insurance in this decision includes its appointed agents.

## **What happened**

In April 2023, one of T's leased vehicles caught fire and a claim was made under the fleet policy T held with Watford Insurance. Salvage agents were appointed to collect and assess the vehicle. On receipt of the engineer's report, the vehicle was deemed a total loss.

Watford Insurance declined the claim in July 2023 on the basis that, following an investigation, it had come to light that the vehicle at the time of the incident was in breach of a policy endorsement which required all installed security cameras to be monitored. It also said another endorsement had been breached which required registration and ownership documents to be in the name of the policyholder or a company director, or that the vehicle must have been leased to the policyholder under a formal written hire or leasing contract.

It concluded that there was no cover for the claim as a result of the breaches and told Mr H it would be recovering payments made in connection with the incident from him.

Mr H made a complaint. He said not only did he disagree with Watford Insurance's decision to decline the claim, but he'd also called it on several occasions to enquire about what was happening with his vehicle. He said he was told each time either that the claim was being processed or they didn't know where his vehicle was. He said he'd lost out on the vehicle as he was the proprietor under the lease, and Watford Insurance had disposed of the vehicle without his knowledge or consent.

In its response to the complaint, Watford Insurance offered Mr H the salvage amount of £1,336.50 and apologised for incorrectly disposing of the vehicle. Mr H didn't accept Watford Insurance's response. He said that he'd called several times between July and December 2023 and could have been given an accurate update about his vehicle. He thought Watford Insurance should compensate him as he was being pursued by the lessor of the vehicle for its full pre-accident value, as well as other fees and costs.

Mr H referred the complaint to this service. Our Investigator considered it, and said he didn't agree with Watford Insurance's decision to decline the claim for the reasons it had given. He considered T had met the terms of the endorsement relating to the ownership documents, and that the other endorsement wasn't relevant to the circumstances of the claim. So he recommended Watford Insurance reconsider the claim and if it agreed to cover it, to pay the total loss value to the owner of the vehicle.

Our Investigator then issued a further assessment addressing additional points that were raised by Mr H, and said that Mr H should be compensated for his financial losses due to Watford Insurance not issuing the total loss payment when it should've, as Mr H had to

continue to make payments towards the fire damaged vehicle.

The Investigator also said the amount paid by Mr H towards the fire damaged vehicle should be deducted from the total loss payment – but that as Mr H would've always needed a replacement vehicle and this wasn't guaranteed under T's policy, his losses in respect of hiring out a replacement vehicle wouldn't need to be reimbursed. Our Investigator did however think £250 compensation should be paid for the inconvenience and disruption to T's business in having to put in extra time and effort to deal with the claim.

Watford Insurance accepted our Investigator's recommendations but Mr H said in response, that the total loss payment shouldn't be reduced as he wasn't making hire payments with a view to purchasing the vehicle, like in a hire purchase agreement, but that T had a retail hire agreement with the lessor.

Mr H also said that he had a fully comprehensive policy with Watford Insurance and provided a letter which confirmed that he would be entitled to a replacement vehicle. He said he didn't accept that Watford Insurance didn't need to cover the hire charges for the vehicle he had to pay for. He said he only had to do so because Watford Insurance failed to pay the total loss payment as soon as it should've – thus forcing him to temporarily hire one out of his own pocket which was a consequential loss.

Because Mr H didn't accept our Investigator's opinion, the complaint was passed to me for an Ombudsman's decision. I issued my Provisional Decision on 16 May 2025. I've included an extract from it below:

*“Watford Insurance has accepted that neither of the endorsements it said had been breached would apply in this case, following our Investigator's recommendations. So I'm not going to comment at length on this aspect of the complaint as there is a mutual agreement between the parties. What I will say is that I intend to agree with our Investigator about those endorsements for the following reasons.*

*I don't currently consider the endorsement relating to registration and ownership documents has been applied fairly. This requires the insured vehicle to have been hired or leased to the policyholder under a formal written hire or leasing contract. I've seen a copy of a formal written lease agreement between T (the policyholder) and a third party. There is a further agreement between the same third party and the owner of the vehicle. So I'm currently satisfied T has met the terms of the endorsement.*

*And at present, I don't consider the endorsement requiring monitoring of the vehicle to be relevant to the claim. This is because although T had no monitoring contract in place, which was required under the endorsement, non-compliance with this endorsement wouldn't have made a difference as it wouldn't have increased the risk of loss, given that the damage was caused by a fire while the vehicle was being driven. Having a camera and a monitoring contract in place wouldn't have prevented the fire or the loss from occurring.*

*I'm therefore minded to require Watford Insurance to reconsider the claim in line with the remaining terms and conditions of T's policy, accepting that neither endorsement should prevent it from doing so, for the reasons I've explained.*

*T's policy says, under “Settlement”, “If You are still paying for Your Vehicle under a hire purchase or leasing agreement We, may at Our discretion, and where appropriate, pay a claim for the total loss of Your Vehicle to the hire purchase or leasing company”. I intend to require Watford Insurance to therefore pay the total loss settlement to the most appropriate party in line with the policy terms.*

*Mr H has said that his payments towards the insured vehicle shouldn't be deducted from the total loss settlement as he isn't paying for the vehicle under, for example, a hire purchase agreement. I'm minded to agree, having seen the lease agreement. There's no evidence that Mr H's payments are going towards a future purchase of the vehicle or that they're in any way impacting the total loss incurred due to the fire. And, if Watford Insurance had paid the total loss settlement when it should've, T's liability to continue to pay for the vehicle would've come to an end. He's now left out of pocket, paying for a vehicle he can't use because the lease agreement is still in place. There's also the possibility of the lessor taking legal action against him. It follows therefore, that I intend to require Watford Insurance to reimburse Mr H for the payments he's made under his lease agreement, with interest, from the date the claim was declined unfairly – until the date of settlement. Mr H will need to provide evidence to Watford Insurance of payments he's made.*

*I don't currently consider Watford Insurance needs to reimburse Mr H for the cost of taking out a replacement vehicle. There's no term in T's policy that entitles it to a replacement vehicle in the event of a claim. And the letter Mr H has provided isn't from Watford Insurance. So if he was given incorrect assurances about the availability of and his entitlement to a replacement vehicle, then he'd need to take this up with the party that offered those assurances.*

*Mr H has mentioned he feels as though Watford Insurance has discriminated against him – but I've not seen any evidence which makes me think he's been treated any differently to other customers in similar circumstances. Whilst I can't compensate him for any upset he's experienced as the director of a limited company, because a limited company as a legal entity cannot experience distress, I can look at the inconvenience that has been caused to his business. And I think that for the inconvenience of having to pursue this claim after it was unfairly declined, and having to repeatedly call and chase Watford Insurance, T should be paid £250 compensation."*

Watford Insurance replied to my Provisional Decision and said it accepted what I'd said. Mr H also replied and made the following points:

- He agreed with my provisional findings, except for my conclusions in relation to reimbursement of the replacement vehicle.
- The broker that assured him that he'd be entitled to a replacement vehicle isn't unconnected to Watford Insurance in the way my provisional decision suggests because the broker and the insurer would have agreed procedures in place in relation to claims and replacement vehicles.
- Credit hire case law specifies that a claimant can recover the cost of hiring a replacement vehicle if they can prove a reasonable need for it.
- According to the policy, Watford Insurance were required to replace his vehicle or provide a settlement at pre-accident value. Both the Investigator and the Ombudsman said it was wrong that they didn't do so.

### **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 reconsidered this complaint and taken into account Mr H's additional comments, I'm upholding the complaint in part. I'll explain why.

As neither party has disputed my provisional findings in relation to the claim decline, the payment of the total loss value, reimbursement of the rental payments (plus interest), and the compensation amount I awarded, I won't comment further on those matters. As such, my provisional findings as quoted above form part of this Final Decision in respect of those matters.

The only issue left for me to consider is therefore the reimbursement Mr H seeks for the cost of hiring a replacement vehicle. While I understand the points Mr H has made about this, I'm still not satisfied that I can fairly award the costs Mr H is seeking.

He's said the broker is connected to the insurer, but it doesn't necessarily follow from this that the insurer is liable for the broker's actions. As far as I can tell from the evidence provided, it was the broker that provided assurances to Mr H in writing about the entitlement to a replacement vehicle. So, even if there is a link between the two, it wouldn't be fair or reasonable for me to hold Watford Insurance liable for this, when its own policy documents don't entitle the policyholder to a replacement vehicle and it didn't give its own assurances as to Mr H's entitlement to one.

The letter Mr H has provided highlights that a claims handling company would provide the replacement vehicle service. Mr H can raise a complaint directly with that company for failing to provide him with a replacement vehicle if he so wishes.

I've noted Mr H's comments about credit hire case law and in particular the Zurich Insurance Plc v Umerji case. I understand that in this case the claimant's impecuniosity was a key factor in determining the recoverability of the hire charges. In Mr H's case, I don't have enough information about T's financial inability to afford a replacement vehicle on the open market – and even if there was such evidence available, a court may find that T was able to mitigate its losses by reasonably avoiding the hire or by using other methods of transportation.

And while there may be cases in which a court has determined that car hire fees are recoverable, there are also cases in which they have not been deemed recoverable, even if the claim was reasonable. And in some cases the claimant couldn't sufficiently demonstrate impecuniosity and replacement vehicles were available at basic hire rates. A court could limit recovery in such situations to basic rates which may be significantly less than the credit hire rates claimed.

I also consider the entitlement to a replacement vehicle to be an optional extra in most policies, so I don't think these costs are always going to be recoverable. I think it's possible that as Mr H's vehicle was deemed a total loss, he would've always had to source a replacement. So it's a cost he would've incurred whether Watford Insurance had acted fairly or not – because if the claim had been paid within a reasonable amount of time, T would still be left without a vehicle and would've had to incur the cost of a replacement.

However, I've noted Mr H's concern that a final decision about his consequential losses would prevent him from bringing a legal claim to recover those losses. So, as I don't consider I have enough evidence to make a fair and reasonable finding about the recoverability of the car hire charges, I make no finding about that particular matter. This means Mr H can accept this Final Decision in relation to all other issues I've considered, and he will still be free to take the matter of his consequential losses in relation to car hire costs to court, if he so wishes – though I would recommend he seeks independent legal advice before doing so.

## **Putting things right**

Watford Insurance Company Europe Limited should:

- Reconsider T's claim in line with the remaining terms and conditions of the policy, accepting that endorsement SBSR\_59 has been met and endorsement SBSR\_74 does not apply to this claim.
- If the claim is accepted, pay the total loss value to the owner of the vehicle, and it may at its sole discretion decide the most appropriate party to receive this settlement.
- Reimburse T for the cost of any rental payments made by T for the insured vehicle under its lease agreement, from the date the claim was declined until the date of settlement (subject to Mr H providing evidence of payments made).
- Add to the above reimbursement amount 8% simple interest per annum from the date the claim was declined until the date of settlement.
- Pay T £250 compensation for the inconvenience incurred.

## **My final decision**

My final decision is that I uphold this complaint and I direct Watford Insurance Company Europe Limited to put things right as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask T to accept or reject my decision before 1 July 2025.

Ifrah Malik  
**Ombudsman**