

DRN-5744131



The complaint

Ms B has complained about how Watford Insurance Company Europe Limited dealt with her mistake in setting up her sister's motor policy.

References to Watford include all its agents, brokers and intermediaries.

What happened

Ms B was helping her sister buy a motor policy in December 2022. Her sister suffers from dyslexia. So, Ms B was looking through quotes on her phone and found this quote with Watford. Later she retrieved the quote via her account with a comparison website to go ahead with it for her sister. However, doing it that way ensured her details were pulled through to the application with Watford. So instead of her sister being the policyholder, Ms B was instead, with her sister being the named driver. The car was owned by Ms B's sister too.

The policy documentation went through to her sister's email address and not Ms B's. So, Ms B never saw any policy documentation to realise the error she had made. Her sister received multiple emails, and she didn't know which might have had any policy documents attached.

In order to see the documents Ms B's sister would need to log into the portal. She tried to do this but couldn't. She contacted Watford who told her that her link to log in would have been sent to her, but she couldn't locate it. In the end Ms B's sister gave up thinking the policy would come through in the post, but it didn't.

Unfortunately, Ms B's sister was involved in an accident on 24 February 2023. She phoned Watford to report it and was told the policy was in Ms B's name so Ms B should phone it instead. Ms B spoke to an agent on 1 March 2023, explaining that the policy had been set up in the wrong name. She said she was told the policyholder couldn't be amended until the claim had been dealt with. Then she should contact Watford again to get the policy changed.

Ms B's sister also called on 2 March 2023 and was given the same information. Watford also advised her to find CCTV if possible. But none was available. Ms B's sister called again in April 2023 and was advised the claim had been settled. She was also advised to have Ms B contact Watford in writing to change the policy.

Ms B duly did this on 16 May 2023. Due to personal circumstances Ms B didn't chase this up. But she never received any response from Watford.

Unfortunately, on 3 November 2023 Ms B's sister was involved in a further accident. The other driver made a claim, so Watford contacted her. Ms B then phoned Watford given the policy should now be in her sister's name not her. The agent told her they would look into her concerns.

However, on 29 November Ms B received a letter saying the policy had been cancelled due to misrepresentation and she would be liable for any costs of the claim. Another letter was sent on 30 November saying the policy would cancel on 7 December 2023.

Ms B's sister also contacted Watford about getting CCTV evidence for this accident. But she was told insurance fraud had occurred and she had broken the law. Ms B then wrote another letter to Watford in December 2023 and made another call where she was told someone would be in touch. However, no return call or other communication was received by Ms B.

On 26 June 2024 Watford wrote to Ms B stating it required reimbursement of the February 2023 accident in the sum of £4,286.36. On 1 July 2024 she received a further letter from Watford saying she also owed it £1,630.51 for the November 2023 accident.

Ms B complained to Watford via a phone call and made a formal written complaint on 17 July 2024. She explained the mistake and all the communications she had with Watford or agents throughout. Watford issued its final response letter on 3 September 2024 not upholding her complaint. Ms B set up a payment plan with Watford to pay it £50 per month as this is all she can afford and then she brought her complaint to us.

Subsequently Watford agreed that it shouldn't ask Ms B to pay for the second accident in November 2023 as it knew of the issues by then but didn't do anything about it.

Consequently, the investigator was of the view that Ms B did unwittingly misrepresent the situation, and cogent efforts weren't made by Ms B and her sister, to see the policy documents once they were issued. Watford clearly showed that it wouldn't have offered the policy to Ms B if it had known the correct information as she didn't own the car, her sister did.

However, it also knew of the issue in March 2023 just after the first accident in February 2023. The investigator felt Watford should have cancelled the policy and not indemnified the claim at that stage. But instead, it settled the claim and effectively indemnified Ms B and her sister. This made both Ms B and her sister believe that Watford wouldn't take any further action then despite it knowing the policy was issued in the wrong name.

The investigator concluded that Watford had affirmed the contract. This is because it knew of the issue in March 2023 but didn't act on it, only to seek to rely on this later when it asked Ms B to refund it for the February 2023 accident. That meant it should no longer ask Ms B to refund it the costs of the February 2023 accident, and it should remove any record of the misrepresentation. She also thought it should pay Ms B £100 compensation.

Ms B agreed. However, Watford didn't respond to the investigator despite several requests to do so. So, on this basis Ms B's complaint 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, and in the absence of any response at all from Watford, I'm now upholding this complaint along the same lines as the investigator. I'll now explain why.

The law dealing with this is called The Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA). It requires a consumer in Ms B's situation not to make a misrepresentation to an insurer. If the consumer does and the insurer would have done something differently, then the misrepresentation becomes a qualifying misrepresentation meaning the insurer has some remedies against the consumer.

I agree with the investigator that Ms B effectively made a potentially 'qualifying misrepresentation' under CIDRA when she said she was the owner and registered keeper of the car instead of her sister and put her sister down as the named driver instead of the main policyholder. This is because the insurer is entitled to rely on the information given in the application to assess the risk and make a decision as to whether to offer the applicant the policy. Here clearly Watford were happy to provide a policy to Ms B for this car because it believed Ms B was the owner of the car with her sister as the named driver.

However, when it found out the correct circumstances it showed us that its underwriting criteria wouldn't have permitted it to have offered Ms B any policy at all as she didn't own the car and had no insurable interest in it.

Watford believed the misrepresentation by Ms B was reckless. Like the investigator I agree it probably was. The applicant should always check the policy documents when they are issued to ensure everything is correct. More so these days when everything is done online so the type of mistake which happened to Ms B needs to be corrected as soon as the Schedule and other documents are issued.

This didn't happen here because the email address for the policy was Ms B's sister and not Ms B. Which was in effect a further mistake. Ms B's sister had problems in finding the policy documents and logging into the portal to check too. Although one of the agents Ms B or her sister talked to, accepted the portal can be difficult at times, it did remain essential for Ms B or her sister to check the documents. Ms B's sister effectively gave up trying as she received lots of emails from Watford and couldn't find the policy documents or the portal log in details. Like the investigator, I consider more care should have been exhibited by Ms B and her sister here.

The important point is that when the accident in February 2023 happened, both Ms B and her sister then realised the mistake that Ms B instead of her sister was the policyholder. Both of them explained this matter to Watford at that time and explained what happened. So, neither of them lied or tried to hide what had gone wrong at all.

That then effectively put Watford on notice of the situation. But instead of sorting it out at that stage, all the agents both Ms B and her sister talked to said nothing could be changed until the claim was dealt with. Then Ms B was to request the policy change in writing. I don't consider that's correct. Effectively Watford knew they were dealing with a claim against a policy which was set up so incorrectly that it would have never offered cover in the first place. So, it wasn't appropriate to tell Ms B and her sister to do nothing until the claim was settled.

Ms B followed the instructions told to her by these agents and wrote a letter on 16 May to Watford to then get the policy corrected. Watford said they never received it but it's clear Ms B sent it. Due to personal circumstances dealing with the care of a very unwell family member Ms B didn't chase this up. In any event given the conversations with the agents that both Ms B and her sister had had, Watford already knew of the information Ms B put in this letter.

Once the second accident occurred in November 2023, the matter came to the fore again. I consider it's correct that Watford has now agreed it can't ask Ms B to refund this second claim as it clearly knew of the situation.

By not doing anything when Watford clearly knew of the mistake in March 2023, I agree that effectively meant Watford affirmed the contract. The agents Ms B and her sister talked to at that time gave no indication that there was any possibility the policy would be cancelled. Instead, both Ms B and her sister were given every indication that it could all be sorted out afterwards with the correct policy details being changed or even possibly a new policy set up with no repercussions either. This means that because it didn't act on the information it had, it then can't rely on that information at a later date to the detriment of the consumer, namely Ms B here. I consider that Watford had sufficient information in March 2023 to know how badly wrong the policy set up had been too.

Consequently, like the investigator I consider that it now can't rely on the initial misrepresentation by Ms B or indeed her sister. Ms B did follow its instructions so it's unreasonable for Watford to rely on its own mistake in an effort to punish Ms B. So, I consider the misrepresentation made by Ms B initially was a qualifying misrepresentation as Watford would have never offered her any policy had it known the correct details. However, it knew the correct details in March 2023 and permitted the policy to persist without taking any action to correct or rather cancel it then. It was too late for Watford to decide to cancel the policy at the end of November 2023 instead.

Therefore, I consider Watford should provide indemnity for both the February 2023 and the November 2023 accident to Ms B. It should also ensure no record of any misrepresentation

is recorded against Ms B and it should also remove the cancellation from all internal and external databases.

I consider once Ms B was made aware of her mistake in March 2023, she tried to sort it out and follow what Watford and its agents told her to do. She was completely upfront about the mistake. Finding out later that Watford was then holding her liable to refund both accidents costs, certainly caused her unnecessary further trouble and upset. So, I agree with the investigator that Watford should pay Ms B some compensation. I also consider the amount of £100 to be commensurate here given all the circumstances and therefore fair and reasonable.

My final decision

So, for these reasons, it's my final decision that I'm upholding this complaint.

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

- Provide indemnity to Ms B for both accidents and cease requesting her to refund their costs.
- Remove any notification of both the misrepresentation and policy cancellation from all internal and external databases.
- Pay Ms B £100 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 1 October 2025.

Rona Doyle
Ombudsman