

The complaint

Mr O has complained about Watford Insurance Company Europe Limited's decision to settle a claim as a fault claim under his car insurance policy.

What happened

In May 2023 Mr O was involved in a collision with a motorbike rider (the third party 'TP').

After investigating the claim, Watford said it would settle it as a fault claim.

Mr O disagreed with Watford and said the motorbike rider was at fault. Watford didn't uphold Mr O's complaint and so he brought his complaint to us.

One of our Investigators thought Watford had acted reasonably and in line with the policy.

Mr O disagrees and wants an ombudsman to decide. In summary he disagrees with the reasons Watford gave for deciding to record the claim as a fault claim.

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.

As our Investigator explained, we don't decide liability. That is a role for the courts. We can look at whether an insurer reached its decision in a reasonable way and in line with the policy.

Mr O's policy with Watford has a very common term which I have seen in all other standard motor insurance policies. This term allows Watford to take over the defence and settlement of a claim in Mr O's name. This means Watford may make a decision Mr O may disagree with, but the policy allows Watford to proceed this way.

We don't disagree with this term in principle, provided an insurer shows it treated a customer fairly when applying it.

Mr O says he isn't at fault for the incident. He says he was carrying out a turn from a side road to a main road and that the motorbike rider was overtaking a car turning into the same side road. Mr O says the motorbike rider was at fault as they were overtaking the turning vehicle and was on the wrong side of the road. He says Watford hasn't taken into account the highway code in respect of the motorbike rider's actions to overtake. It has only quoted the highway code in relation to his actions.

However, the motorbike rider did not give the same account of the incident as Mr O. They said they were correctly proceeding when Mr O pulled out from a side road into their path and caused the collision.

There were no independent witnesses and no CCTV footage. Photos taken at the scene show Mr O's car had partially left the side road, but was not yet established onto the main road. Mr O confirmed the motorbike rider collided head on with his car. Photos show the motorbike wheels to be on the correct side of the road they were travelling on.

The insurance industry uses the terms 'fault' and 'non-fault' to record claims where the costs were 'not recovered' or 'recovered or no costs'. I appreciate that this means sometimes a customer wasn't at fault for a claim, for example if their car was stolen, but because there is no party to recover the claim costs from, this will be recorded as a 'fault' claim by an insurer.

In this case, the third party's representative issued court proceedings to recover all costs from Watford as they said Mr O was at fault for the incident. On review of the claim, the legal advice was to look to negotiate the claim on a 80% 20% liability basis and await the third party reply. Watford's legal representative advised that the claim could settle on a 50%50% basis.

Mr O has highlighted the advice around looking to settle on a 80%20% basis. He finds Watford was unreasonable to have settled the claim as a fault claim in light of this advice from 2023 and 2024.

But the offer was not accepted by the third party representative. And as the policy allows, Watford can make a decision as to how best to settle a claim, even if Mr O doesn't agree with that decision. In this case, irrespective of whether Watford agreed Mr O was 1% or 100% at fault, the outcome of recording the claim as a fault claim would be the same. This is because Watford would not be able to recover 100% of its claim costs from the third party.

In response to Mr O's complaint, Watford said it would not deal with a personal injury claim for Mr O and directed him to his broker to see if he had legal protection insurance. As the Investigator explained, Mr O will need to make a separate complaint if he is unhappy with the legal expenses cover provider.

Watford's legal representatives said they intended to deal with the claim on a 'without prejudice' basis. This means Mr O isn't prevented from looking to make a claim directly against the third party. But his policy with Watford doesn't provide cover for this, so Mr O will need to seek separate legal advice about that.

Taking everything into account, I find Watford properly investigated the claim. I think it's decision to record the claim as a fault claim was reached in a reasonable way and in line with the policy. I understand Mr O will be disappointed with my decision. But this means I'm not upholding his complaint.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 19 March 2026.

Geraldine Newbold
Ombudsman