

The complaint

Mr D is complaining about the amount Tradewise Insurance Company Limited (Tradewise) is charging him as an additional premium on his commercial vehicle insurance policy.

What happened

Mr D took out a commercial vehicle insurance policy with Tradewise. He took the policy out through a broker. Afterwards the broker, on Tradewise's behalf, asked Mr D to provide proof of his one year No Claims Discount (NCD) and a copy of his driving licence.

Mr D later provided this, but Tradewise said that his proof of NCD wasn't acceptable because it was for when he was a named driver on a policy. So it said it would have to recalculate the premium payable for the policy. And the broker advised him that he owed an additional premium of £1,049.98.

Mr D didn't think this increase in premium was right or fair as he said it equated to an increase of around 72%. But he said the one year NCD gave him a discount of 20%. So he thinks the premium should only be increased by 20%.

The broker explained that the increase in premium is a combination of the loss of the 20% discount, a 15% loading on the insurance premium and a 15% removal of the new business discount. Mr D disagree with this and he asked Tradewise to share its underwriting criteria to demonstrate the loading was correct, but Tradewise didn't do so.

Tradewise advised Mr D that it was willing to waive 50% of the additional premium or allow him to cancel the policy and it would only charge a pro-rata amount of the original premium based on how long the policy was active. Mr D still didn't think he should have to pay more than a 20% uplift. And he asked this service to step in.

Our investigator didn't uphold the complaint. He said the statement of facts set out that any inaccurate information given could result in an increase in premium. He said Tradewise isn't required to share its underwriting criteria. He said insurers use many factors to assess the level of risk each individual case represents and calculate the annual premium. And he said they're entitled to rate these premiums based on that information.

The investigator thought that Tradewise had treated Mr D fairly so he didn't think it had to do anything further.

Mr D didn't agree with the investigator's opinion for the following reasons:

- He doesn't think it's justifiable to add a premium loading fee when there's no mention of it in any previous documentation. He accepts that there may be warnings that the price may rise if things are not declared properly, but raising the price and adding additional fees are two totally different things. He doesn't think Tradewise should be allowed to increase the price by any arbitrary amount. He said the sums don't add up as he thinks the percentage increases Tradewise has referred to amount to just over a 50% increase in premium, but the premium went up by around 72%.

- He thinks the increase is disproportionate to the assessed factors. He says there were no other factors involved, other than changing the NCD. So he maintains that the increase should only have been 20%.

As Mr D didn't agree with the investigator's opinion, the complaint's 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.

I should first state that I'm only considering the actions of Tradewise in this complaint. Mr D has also complained about the actions of the broker. But this is being considered in a different complaint. So I've not commented on anything the broker did in this decision - including in respect to any charges it may have applied. I've decided to not uphold this complaint and I'll now explain why.

Mr D has raised a number of points that he wants this service to take into account. I've taken them all into consideration. But I've not commented on each and every point he's raised. No discourtesy is meant by this, but it simply reflects the informal nature of this service. In this decision I've focussed on what I think are the key issues.

Under the Insurance Act 2015 Mr D has a duty to give Tradewise a fair presentation of the risk when applying for his insurance policy. So it was his responsibility to ensure that Tradewise had all the information it needed to assess the risk it was being asked to cover. For Tradewise to take any action at all, it needs to show Mr D didn't do this and that he made what's described as a qualifying breach.

Tradewise was told that Mr D had one year NCD, but he didn't as this came from being a named driver on another policy. So it says it wasn't given a fair presentation of the risk. Mr D took out the policy through a broker and it was the broker who applied for the policy on Mr D's behalf. So it was the broker's responsibility to ensure that Mr D made a fair presentation of the risk.

The broker advised Tradewise that he had one year's private NCD from a previous policy. But this was from him being a named driver on his sister's policy. Tradewise doesn't consider this to be proof of NCD, so it said that Mr D should have said that he didn't have any proof of NCD. And I'm satisfied that Tradewise has shown that this is correct. So I don't think Mr D did make a fair presentation of the risk.

The Insurance Act sets out that a qualifying breach is either "deliberate or reckless" or "not deliberate or reckless". I don't think Mr D deliberately or recklessly gave Tradewise incorrect information. So I think it would be considered "not deliberate or reckless" under the Insurance Act.

The Insurance Act sets out that *"the insurer has a remedy against the insured for a breach of the duty of fair presentation only if the insurer shows that, but for the breach, the insured:*

(a) would not have entered into the contract of insurance at all, or

(b) would have done so only on different terms."

Tradewise would have offered Mr D an insurance policy on the basis of no previous NCD, but it would have charged more. The Insurance Act sets out the remedies available to Tradewise where it can show there's been a qualifying breach. And it says *"if the insurer would have entered into the contract, but on different terms (other than terms relating to the premium), the contract is to be treated as if it had been entered into on those different terms if the insurer so requires."*

So in this case, Tradewise was entitled to calculate what it would have charged Mr D had it known he didn't have any previous NCD.

I note Mr D thinks that the premium should only have increased by 20%. But I don't agree. The NCD provides a discount off the base premium. And Mr D received a 20% discount off the base premium with having one year NCD. But Tradewise also considers consumers with no previous NCD to be a greater risk than those with one year NCD. So it's explained its underwriting criteria applies a 15% increase to the base premium for consumers without any NCD, as opposed to those with one year. I'm satisfied that it's demonstrated it would have charged an additional 15% onto the premium had it been told Mr D didn't have any NCD. So it has acted fairly and in line with the Insurance Act in this respect.

Further to this, Tradewise has explained that it only allows brokers to give introductory discounts where the policyholders have at least one year NCD. So it says Mr D also wouldn't have received this discount had it known he didn't have any NCD. So, as above, if that's the case the Insurance Act entitled Tradewise to remove this discount from the original premium it charged. I'm not persuaded that Tradewise has given sufficient evidence to support that it doesn't offer discounts where policyholders don't have any NCD. But, even if this isn't the case, Tradewise offered to reduce the additional premium payable by 50% which I think was more than it needed to do. So I don't think it needs to do anything further in this respect.

Tradewise also said it would allow Mr D to cancel the policy and it would only charge on a pro-rata basis based on the original premium, which is what I'd expect it to do. I understand why Mr D wasn't willing to cancel the policy. But I can't say that Tradewise has treated him unfairly.

I've also looked at the way it's calculated the increase in premium, given Mr D has said it was calculated incorrectly, and I think it acted fairly. I appreciate Mr D thinks what Tradewise has charged is unfair. But it's calculated the additional premium based on what it would have charged, had it been told Mr D had zero years NCD. And, in doing so, it's acted in line with what the Insurance Act says.

My final decision

For the reasons I've set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 19 April 2020.

Guy Mitchell
Ombudsman