

complaint

Mr W's complained that Tradewise Insurance Company Limited refused to settle a claim he made under his motor trade insurance policy.

background

Mr W had a motor trade policy with Tradewise since June 2014. He had a number of cars insured under the policy as he works in the motor trade.

Just after he bought a car, he was involved in an accident. His car slid out of control due to surface conditions and was damaged. Tradewise decided the car was a total loss. It then decided not to deal with Mr W's claim as his car had been modified. Mr W complained to Tradewise about a number of things:

- The valuation for his car was too low.
- Tradewise should have made a claim against the local council as it was responsible for the clay on the road – leading to the accident.
- Tradewise delayed the claim.
- When he bought the car he was told no modifications had been carried out to it since it left the factory from new.
- He wanted to keep his car and had free storage to hold it. But it was taken without his permission to a salvage yard and destroyed.

Tradewise said the policy explained any cars that had been modified would be covered on a third party basis. It thought the majority of the delay was due to it waiting for documents from Mr W. It did consider making a claim against the local council, but decided it wasn't likely to succeed.

Mr W remained unhappy, so he brought his complaint to us. The adjudicator who investigated the complaint thought it should be upheld in part. She thought there had been some poor service by Tradewise and recommended it pay Mr W £50 compensation for this. She agreed it was reasonable to decide not to pursue a claim against a third party. But she thought it should have paid his claim. She thought Tradewise should have done more to tell Mr W his car was only insured on a third party basis - so he could have looked for an alternative policy.

Tradewise said it alerted Mr W to the third party cover in the Statement of Fact when he bought his policy. It asked Mr W to provide evidence that his car hadn't been modified, but he hadn't. Although it didn't acknowledge one of Mr W's letters, it replied to it within his complaint, so it didn't think its service had been poor.

Tradewise said Mr W's car hadn't been destroyed. So Mr W went to look at his car but said it had been further damaged as the windows had been smashed and it hadn't been covered up.

So the matter has been referred to me to decide.

my findings

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, I intend to uphold it in part.

Tradewise's decision not to deal with Mr W's claim

When Mr W added this car to his policy online, the underwriters were in the process of asking him to provide photos of the car. But Mr W had the accident so no photos were sent. Tradewise said the car was 'flagged' because the underwriters know this type of car can have modifications as it's an imported car.

I appreciate the Statement of Fact says a modified car is only third party insured. But Mr W understood from the dealer he bought the car from that it hadn't been modified. So I think it was for Tradewise to alert Mr W to the possibility that his car may not be comprehensively insured. So Mr W didn't have the opportunity to look for alternative cover – or at least be aware of the level of cover this car had while the underwriter was investigating.

The engineer carried out a desktop assessment of Mr W's car just after the accident. The report made no reference to any modifications identified and the engineer discussed an initial pre loss value of £3,000 with Mr W. This was in the same month as the accident – December 2014. In July, the engineer increased the sum to £4,980 – based on trade guides and Tradewise' notes show it was ready to send an offer letter. But it wasn't until October that Tradewise asked the engineer if the car could have been modified.

The engineer said Mr W's car was modified with an aftermarket exhaust, induction system and torque damper. But he later said the car was built in Japan as a UK import. So any modifications may be considered as standard manufacture. It was possible for modifications to be requested before the car was built.

There isn't enough to show the car was modified 'after market' – or that Mr W knew his car was modified. So I think Tradewise was unreasonable to Mr W by refusing to settle his claim.

I also think Tradewise caused undue delay. The documents it was waiting for from Mr W didn't affect its decision to refuse the claim - because of modifications to the car. It went back to the engineer to ask about possible modifications ten months after the total loss report was available.

So Tradewise should now deal with Mr W's claim by paying him the market value of his car in line with the remaining conditions of the policy. It should also pay the costs of any storage of Mr W's car. If Mr W wishes to retain the salvage, Tradewise is entitled to deduct a reasonable salvage fee from the market value. We think a reasonable salvage fee should be around 20%.

Tradewise didn't pursue a claim against a third party

Mr W wanted Tradewise to pursue a claim against the council and a construction company. The police thought the poor road conditions contributed to the accident.

Tradewise did consider the matter. But it didn't think its chances of success were good. Tradewise has the right under Mr W's policy to settle or defend a claim as it sees fit. This might mean Tradewise makes a decision Mr W doesn't agree with, but the policy allows Tradewise to do this. So I think it was reasonable in deciding not to pursue the claim against the third parties.

Tradewise's service was poor

Mr W wrote to Tradewise in early December, but Tradewise didn't acknowledge or reply to him. So Mr W wrote again later in December to complain as he hadn't received a reply. As Tradewise replied to his complaint in January, it believes it provided a fair service to him. But I think Tradewise should have acknowledged Mr W's earlier letter so he knew it was dealing with his concerns. For this I think it should pay Mr W £50 compensation.

my final decision

For the reasons I've given above, my final decision is that I uphold this complaint in part. I require Tradewise Insurance Company Limited to do the following:

- Pay Mr W the market value for his car at the time of loss.
- Pay interest on this sum at a simple rate of 8% per year from the date of the total loss report (15 December 2014) to the date it pays him.
- Pay any storage costs due.
- Pay Mr W £50 compensation for the trouble it caused him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 3 June 2016.

Geraldine Newbold
ombudsman

HM Revenue & Customs requires Tradewise Insurance Company Limited to take off tax from this interest. Tradewise Insurance Company Limited must give Mr W a certificate showing how much tax it's taken off if he asks for one.