

## **complaint**

Mr G trading as 'G' has complained that Tradewise Insurance Company Limited didn't pay a claim he made under his motor trade insurance policy.

## **background**

G bought a motor trade policy with the insurer, Tradewise via a broker. In August 2018 one of his vehicles was damaged in an arson attack. G had parked the vehicle at a friend's address while he went on holiday with his friend for a few days. So he made a claim to Tradewise.

Tradewise rejected G's claim for two reasons. It said the vehicle had been modified – and it wasn't parked at the insured address when the incident happened.

G asked us to look at his complaint. Our investigator thought Tradewise had acted reasonably and in line with the policy.

G didn't agree. In summary he's unhappy with the policy wording and the way Tradewise has applied the terms to his circumstances.

I issued a provisional decision on 5 June 2019. I thought Tradewise shouldn't have rejected G's claim because the vehicle had been modified. But I thought it was reasonable to reject G's claim because the vehicle wasn't parked at the insured address when the incident happened.

Tradewise accepted my provisional decision. G didn't agree. So the case has been passed back 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 don't intend to uphold it for one of the reasons Tradewise gave - but not both. I understand G doesn't accept what I've said. But there isn't any new information for me to consider. So I haven't changed my reasons as set out in my provisional decision.

Tradewise as the insurer is responsible for dealing with any claim G makes under the policy as it underwrote the policy. I'll address each reason which Tradewise has given for rejecting G's claim under the headings below.

### **Modification**

G's policy says;

*"Vehicles restricted to Third Party Only cover:-*

*Kit built vehicles*

*Any Ford Cosworth Model*

*Any vehicle over 25 years old from date of manufacture*

*Any Q-Plated vehicle*

*Customised, Modified or supercharged."*

And listed as a significant exclusion, it reads:

*"The Company shall not be liable for:*

*20. Loss or damage by fire, theft or accidental damage to any Insured Vehicle that is of American/Canadian manufacture, kit built, customised, modified or supercharged, any Ford Cosworth model. Any Insured Vehicle over 25 years old from date of manufacture or any Q-plated vehicle."*

G says that it isn't possible to buy the vehicle in question from the manufacturer as a recovery vehicle as they don't make one— so it had to be modified. He says that it therefore should have been obvious to Tradewise when he insured the vehicle as a recovery vehicle that it was modified. G says his vehicle shouldn't be considered as modified anyway - as Tradewise doesn't define what it means by modification.

It seems clear from what G has told us that he knew the vehicle had been modified. However, G answered 'no' to the following question on the Statement of Fact:

*"Do you handle or own one of the following: kit built vehicles; vehicles that have been customised, modified or supercharged; any Ford Cosworth models; vehicles over 25 years old from date of manufacture; Q-Plated vehicles?"*

The V5 shows the truck wasn't a recovery vehicle from new. By the time G bought it (he wasn't the first owner), it was a recovery truck. There's no dispute that the vehicle was changed.

Commercial policies are covered by the Insurance Act 2016. Under the act the consumer has a duty to make a fair representation to Tradewise of the risk it was taking on. This means it was for G to disclose anything he knew or should have known that might influence its decision to offer full cover. As a motor trader, I think G should have been vigilant in checking the V5 when buying a new vehicle.

However, the vehicle in question appears to be sold as a chassis cab, with the stated purpose of being customised. In this type of vehicle, an aftermarket fitment is chosen by the purchaser. So it's also the case that most manufacturers of such vehicles sell them in this way. I therefore think it's arguable that the vehicle was modified as soon as the first owner chose to add an insulated, tipper, flat-bed or other body to the chassis. I think Tradewise should have known it was likely a recovery vehicle wouldn't have left the production line in that form.

G told Tradewise that this vehicle was a recovery vehicle when he added it to the policy. Tradewise offers full cover to recovery vehicles. So I don't think there's a material difference in the risk it took on in insuring a recovery truck that was once used as an insulated van. As there's another reason Tradewise relied on to reject G's claim, there's no need for me to consider the point about modification any further.

#### *Location*

G's policy says;

*"The Company will provide Insurance subject to the terms of this Policy while an Insured Vehicle is:*

*a) Being used on any road or temporarily garaged or parked during the course of a Journey in or on any premises not owned by or in the occupation of the Insured or any partner, director, employee or person named or described in the Schedule;*

*b) Garaged or parked at the Permanent Residence of the Insured as described in the Schedule and/or the Statement of Fact;”*

and it defines the location address as;

*“Home/Permanent Residence shall mean the address shown on the Statement of Fact and Schedule as being the permanent residence of the Insured and the place where the Insured Vehicle is kept.”*

Tradewise’s policy said that G can use the vehicle for social, domestic and pleasure purposes. But because G left the vehicle at a different address overnight to go on holiday for a few days, it wasn’t parked within the course of a journey. – and so it said it correctly rejected his claim.

G says that the policy wording places no such limitation on his journey and he’s referred to the ‘limitations of use’ wording on his certificate of insurance. Our investigator gave an example of how the wording would reasonably apply: if G had gone shopping and while his vehicle was parked it was damaged, cover would apply, because the vehicle was parked during the course of a journey.

G says the wording Tradewise uses means nobody could park their vehicle in a public space overnight because it wouldn’t be insured and a consumer would be committing a criminal act by doing so.

The fact that Tradewise rejected the claim doesn’t mean that G’s vehicle wasn’t insured under the terms of the Road Traffic Act. And there are a wide range of insurance policies available on the open market for a consumer to choose from to suit their needs. This is a motor trade policy – so it doesn’t have the same terms and conditions as a standard personal motor insurance policy. I think Tradewise clearly set out the terms under which G’s vehicle was insured while away from the insured address. As the investigator explained, if G is unhappy about any aspect of the sale of the policy, he can take this up with the broker.

I understand G is disappointed with my decision. He has raised a number of new issues which he will need to first raise with Tradewise. I think Tradewise’s decision to reject his claim because of the address where the vehicle was left - was reached in a reasonable way and in line with the policy. So I don’t think it should pay G’s claim.

### **my final decision**

For the reasons I’ve given above, 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 G trading as ‘G’ to accept or reject my decision before 27 July 2019.

Geraldine Newbold  
**ombudsman**