

## **complaint**

Mr V complained about the way Tradewise Insurance Company Limited settled a car insurance claim he made following an accident in April 2016.

## **background**

When the claim was first reported to Tradewise the details given were that:

- Mr V had been travelling along a four lane road in the third lane and that he indicated left to go into the second lane when he collided with another car
- he wasn't sure if the other driver was always in the second lane or had changed lanes from the first lane
- he thought the other driver was at fault because he was speeding.

Mr V later completed a claim form. He said that as he approached an underpass he indicated left to move into the next lane. He saw no-one in the mirror so started moving left. As he did so another car suddenly went past him. He provided a diagram which showed the four lane road splitting in two – two lanes going left and two going right. It also showed Mr V's car in the third lane moving into the second lane as he describes above.

When the other driver contacted Tradewise he said he was proceeding along a four lane road when Mr V, who was in the lane to the right, suddenly changed lanes to avoid going into the tunnel and collided with his car.

Tradewise arranged for Mr V's car to be repaired – with Mr V paying the £500 policy excess. It tried to get a written statement from a witness (who had verbally confirmed that the other driver was speeding) to get further details about the accident but it didn't get a response. Based on how it thought the courts would decide the matter, Tradewise decided to settle the other driver's claim in full. This was based on the fact that Mr V didn't know where the other driver came from, there was no persuasive evidence to support the allegation that the other driver was speeding, and it was Mr V who changed lanes.

Tradewise also said that it was legally required to pay the other driver's costs – including the cost of him hiring another car.

Mr V is unhappy because he thinks the blame should be split 50/50. He's also unhappy with the amount Tradewise paid – particularly for the cost of the other driver's hire car.

## **my provisional findings**

I issued a provisional decision which explained why I didn't think the complaint should be upheld. In summary, I said:

### *liability*

- both drivers provided almost identical descriptions of how the accident occurred in that it was Mr V who changed lanes
- Tradewise decided to settle the other driver's claim in full as it felt the court would blame Mr V as he changed lanes
- I thought it was fair for Tradewise's to work on the basis that it was for Mr V to ensure the way was clear before he changed lanes
- I also thought it was fair for Tradewise to work on the basis that it wouldn't be possible to prove that the other driver was speeding
- so I was satisfied that Tradewise treated Mr V fairly when it decided to settle the other driver's claim.

### *the other driver's costs*

- the amount Tradewise paid was high because of costs the other driver incurred for a hire car. The other driver was a chauffeur so he needed to hire another car to continue working. The cost of that was high due to the specification of the car he drove and the time it took before Tradewise agreed to pay for the repair
- if you're at fault for an accident and cause damage to another person's car you are often liable for all the costs that arise from that. In this case it was necessary for the other driver to have a hire car otherwise he would lose income
- Tradewise tried to dispute the cost of the hire car with the other driver's representative, but ultimately it felt it had no option other than pay the costs in full
- there was a small delay before Tradewise agreed to pay for the other driver's repairs, which in turn delayed the other driver getting their car repaired. I didn't think the delay was unreasonable as Tradewise wanted to confirm whether or not Mr V was liable before it agreed to pay the other driver's costs.
- overall, I didn't think Tradewise paid the other driver any more than what it was required to pay.

### *legal expenses insurance*

- the policy only provided legal expenses cover in respect of costs incurred defending manslaughter or reckless/dangerous driving causing death proceedings
- the policy had some uninsured loss recovery cover. But I thought this cover was dependent on the other driver being held at least partly liable for the accident
- so, as I had concluded that Tradewise acted fairly in agreeing to settle the other driver's claim in full, I thought it had also acted fairly in not providing any uninsured loss recovery cover.

### *hire car insurance*

- Mr V had separate hire car insurance provided by Tradewise. The policy provided cover for a hire car whilst Mr V's car was being repaired following an accident
- but Mr V never made a claim under his hire car policy. And Tradewise couldn't provide benefit under the policy or pay a claim unless a claim had been made
- so I wasn't persuaded that Tradewise treated Mr V unfairly by not providing him with a hire car.

### **responses to my provisional decision**

I haven't heard further from Tradewise.

Mr V disagreed with my decision. He said the cost of the other driver's claim was still in question. He said the other driver hired the car without agreement from the insurers and he questioned whether the other driver was connected to the repairer. He also queried why the repair took a month.

Mr V also felt my judgment was prejudiced as I had elevated the other driver's status as a chauffeur. He also said his car wasn't fit for purpose and asked who will replace his loss.

### **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Mr V hasn't provided anything new which persuades me to change my mind.

The two main issues here are liability and the cost of the other driver's claim. For liability, I don't have anything further to add to what I've said above. I remain of the view that it was fair for Tradewise to work on the basis that Mr V was to blame for the accident.

The other driver's costs were high for two main reasons – the daily cost of the car he hired, and the length of time he hired the car for. I don't agree with Mr V that my judgment is prejudiced because the other driver is a chauffeur. I mentioned the other driver's occupation because it's important in understanding (a) why he needed a replacement car, and (b) why a specific car – at a specific cost – was needed.

I don't think the fact the other driver might have hired a car without any agreement from the insurers is relevant. It remains that he did hire a car and that as Mr V was deemed to be at fault for the accident Tradewise was liable for those costs.

I explained in my provisional decision (and above) why the repair took so long. I have nothing further to add to that. I've not seen anything to suggest that the other driver was connected to the repairer.

As for Mr V's losses, Tradewise has covered the cost of repairing his car. Mr V is liable for the excess so that's a loss he has to cover himself. I'm aware that Mr V has other insurance policies. If he thinks these cover other losses he suffered he will need to make a claim under those policies to the relevant insurer. If Mr V has suffered losses that aren't covered by one of his policies, he will have to cover those losses himself.

**my final decision**

For the reasons outlined above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr V to accept or reject my decision before 20 November 2017.

Paul Daniel  
**ombudsman**