

complaint

Mr W has complained that Tradewise Insurance Company Limited didn't confirm that his vehicle was insured when he was stopped by the police.

background

Mr W has a commercial motor insurance policy. The policy allows him to drive multiple cars.

In December 2017, Mr W was stopped by the police while he was driving a recovery vehicle. The police contacted his insurer (Tradewise), and Tradewise told them it couldn't confirm cover for the particular vehicle he was driving. As a result Mr W's vehicle was impounded and he was fined. Mr W also had to wait to hear from the police about a court date.

Mr W believed he was insured and so he made a complaint. Tradewise asked Mr W to provide evidence to support that it should be covered by his policy, but it didn't uphold his complaint. It felt Mr W didn't have a valid MOT, and he was driving his vehicle despite it being declared 'off-road'. It also noted that Mr W was driving his vehicle using trade plates, which it said wasn't right given the vehicle was in his permanent possession.

Mr W provided evidence to show his vehicle was MOT exempt, but Tradewise was still of the opinion it had given the police the correct information given the circumstances in which Mr W was driving his vehicle. It removed the vehicle in question from Mr W's cover, effective from March 2017 (which was the date it was last taxed).

Mr W remained unhappy with Tradewise's response and so he referred his complaint to us.

An investigator looked into Mr W's complaint but he didn't uphold it. He thought Mr W should've told Tradewise his vehicle had been declared 'off-road' in March 2017, and he should've told them that since then he'd been driving the vehicle using trade plates.

The investigator explained that Tradewise had provided evidence to show that had Mr W informed them of his intention to use the vehicle in the way he had since March 2017, it wouldn't have continued to insure him to drive that vehicle. He felt Tradewise had acted reasonably because according to the government's website, vehicles which are permanently in a motor trader's possession, that have been declared off-road, can only be used to travel to a pre-booked MOT. On top of this, he explained that the DVLA guidance also said that trade plates can only be used on which vehicles that are temporarily in a motor trader's possession, and in this case, Mr W had owned the vehicle in question since at least 2012.

In short, the investigator didn't think it was fair to expect Tradewise to insure a vehicle for uses outside of those permitted.

Mr T didn't agree with the investigator's opinion. He said that lots of people used their vehicles in the way he did, and this was a tax issue rather than an insurance issue.

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've decided not to uphold Mr W's complaint, for broadly the same reasons as the investigator.

Mr W's policy sets out that he must tell Tradewise of any changes, and this would include any changes in how Mr W intended on using the vehicle. In my opinion, Mr W declaring his vehicle as 'off-road', with the added intention of driving the vehicle using trade plates (even occasionally), poses a fundamental change in risk, which he needed to tell Tradewise about.

The investigator is correct in explaining that the law which governs policies such as the one Mr W holds, requires policyholders to make a fair presentation of the risk they pose to the insurer. In this case, I've seen no evidence to suggest Mr W told Tradewise about the fact his vehicle had been declared 'off-road', or of his intent to drive the vehicle using trade plates. Had Mr W done so, I'm persuaded Tradewise would've no longer covered the vehicle in question because it has provided evidence from its Director that it wouldn't have covered the vehicle.

Nevertheless, I've thought about whether Tradewise's director has been fair in deciding that it never would've offered cover of the vehicle had it known about how Mr W was intending on using it from March 2017 onwards. I think he has been. I'll explain why.

The government website sets out that vehicles which are permanently in a motor trader's possession, that have been declared off-road, can only be used to travel to a pre-booked MOT. Use of the vehicle for any other reason is punishable by court prosecution and a fine. Furthermore, DVLA guidance states that trade plates should only be used on vehicles which are temporarily in a motor trader's possession. It appears that Mr W's vehicle had been in his possession since at least 2012, so he therefore wasn't driving his car in line with DVLA guidance.

Given Mr W wasn't acting in accordance with government or DVLA guidance, it wouldn't be fair or reasonable for me to suggest Tradewise hasn't acted correctly in the circumstances. So in this particular case, I think Tradewise has been fair in removing the vehicle in question from Mr W's policy, effective from March 2017. And I don't think it did anything wrong in telling the police it couldn't confirm cover for the vehicle Mr W was driving at the time.

my final decision

For the reasons set out above, I don't uphold Mr W's complaint against Tradewise Insurance Company Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 12 July 2018.

Katie Doran
ombudsman