

complaint

Ms K complains that U K Insurance Limited has refused to pay the claim she made under her car insurance following an accident because it said her tyres were bald and below the legal limit.

background

The accident occurred when Ms K ran into the back of another vehicle. On 9 May 2017, UKIL sent its engineer, Mr C, to inspect Ms K's car. He prepared an Audatex report, concluding that the tread on the front nearside tyre was below the legal limit. On that basis UKIL refused to pay for the car to be repaired. It also refused to refund Ms K's premium because the other driver was making a claim against her which UKIL was dealing with.

Ms K obtained letters from two garages. These stated that the tyres were within the legal limit. Our investigator wasn't persuaded by this evidence so Ms K has asked for an ombudsman to review her complaint.

my findings

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

UKIL's engineer has provided a detailed account of the legal requirements and his findings on inspecting Ms K's car. He says there should be a continuous band for at least three quarters of the central section of the tyre with a depth of 1.6mm with a visible tread of at least 1mm on the remaining section and a visible tread of at least 1mm around the entire circumference of the outer edge of the tyre. He concluded that the *'tyre when tested was under 1.6mm and had no continuous visible tread to the outer edge and is therefore not legal'*. Mr C inspected Ms K's car on 9 May 2017.

Mr C noted other pre-existing damage to the rear bumper and the driver's door.

The first report Ms K sent is from a Mr S, he says: *'My professional opinion from looking at the tyre and examining the thread (sic) is that the tyre has a 1.6mm tread and is within the legal limit to be used.'*

The second report Ms K sent us is handwritten on an invoice slip, dated 12 July 2017 and says *'nearside front tyre inspected today and is road legal'*.

Both these letters are on headed note paper from a garage. There is no information about the circumstances under which the inspection took place, the professional qualifications or experience of the writers. It's not clear to me whether Mr S has considered the situation in relation to the outer edge of the tyre. Likewise the second report contains minimal information about the basis on which its author concluded the tyre was 'road legal'. Finally I note that both Ms K's reports were obtained over two months after the accident. Without any evidence to confirm that the tyre inspected was the one that was on Ms K's car at the time of the accident, I think it's difficult to place any reliance on either.

I don't think the photographs that both UKIL and Ms K have sent us are particularly helpful. It seems to me that the only reliable evidence available is that of Mr C, who is an experienced and qualified engineer. On that basis I have concluded that I prefer his expert opinion to

those contained in the reports Ms K sent in. Mr C has clearly set out both the legal test and his findings. He inspected the car shortly after the accident, when the tyre in question was still in situ. He attributed the accident in part to the fact that the car had a bald tyre. I accept his evidence.

Ms K has argued that the car was only just over a year old and had been regularly serviced. As the investigator said, it may be that this is an issue Ms K needs to take up with the garage concerned, but I'm satisfied that Mr C has accurately reported his findings when he inspected the car.

Under the terms of her policy, Ms K was required to make sure her car was roadworthy. Given Mr C's findings, I have concluded that UKIL was entitled to refuse the claim.

my final decision

I do not uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms K to accept or reject my decision before 12 October 2017.

Melanie McDonald
ombudsman