

complaint

Mr W complains that Covea Insurance plc will not provide indemnity under his motor trade insurance policy for an accident he was involved in while riding a motorcycle.

background

Mr W was riding a motor cycle when he was involved in an accident. Covea has declined to indemnify him for the accident as it says he was driving the motor cycle for social, domestic and pleasure purpose which are excluded under the motor trade policy. Mr W disagrees and says he was driving the motorcycle for motor trade purposes.

Our adjudicator did not recommend that the complaint should be upheld. In summary, she considered that:

- Covea says that the exclusion was explained in the policy terms and conditions and key facts document. Although it cannot confirm that a key facts document would have been sent to Mr W when he took out the policy she was satisfied that it was likely this document would have been provided with the inception documents.
- The key facts document and policy highlighted to Mr W that indemnity was only offered for motor trade purposes.
- Although the evidence suggests that Mr W started the journey using the motor cycle for trade purposes during his interview with the claims assessor he had said that the person he went to show the motorcycle to was not in, so "*I decided to have a ride as it was a nice day*". This suggests that rather than just returning home to complete his trip for motor trade purposes he decided to use the motorcycle for pleasure purposes. This use is excluded from the policy.
- Mr W has since said he was testing the motor cycle for faults but the best testimony is that provided by him to Covea at the first opportunity. The purpose of the journey was also not detailed in the police report and she was not persuaded that Mr W told the police he was driving the motorcycle for business purposes.
- Mr W has also changed his position in relation to the purpose of his journey that day and his evidence regarding the potential purchaser is different to that provided by that person, who has also changed his evidence. Where a complaint involves what a third party said or a change in evidence that is better dealt with by a court which can cross examine witnesses.
- As a result she is unable to conclude that Mr W was using the motorcycle for trade purposes at the time of the accident or that Covea should be required to provide indemnity.

Mr W does not agree and has asked for an ombudsman review. In summary, he says that the accident took place after he had gone on to another destination before going to show the motorcycle to the prospective purchaser. Even if he was on a "*jolly*" when going to another destination he then went to show the motor cycle to the prospective purchaser. The return trip home from showing it to the prospective purchaser would have fallen within the motor trade use. He does not consider he has changed his evidence and says he is adding detail to what he said earlier.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

Where the evidence is incomplete, inconclusive, or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in the light of the available evidence and the wider circumstances.

Having done so, I agree with the conclusions reached by our adjudicator for broadly the reasons given.

Furthermore, although Mr W now says that he is merely adding detail to his evidence I am not persuaded that this is the case. His version of events for the day of the accident appears to have changed over time. As such I give greatest weight to, and am most persuaded by, the version of events he gave just after the accident when he was interviewed by the claims assessor not least as events were then no doubt still fresh in his mind.

In that statement he clearly said *“I decided to have a ride as it was a nice day”*. As such I consider it is more likely than not that from the point of making that decision he was, in his own words, on a *“jolly”*. I am also not persuaded in the light of that decision that his return journey reverted at some arbitrary point from a *“jolly”* to being for motor trade purposes as is now suggested.

In any event, the evidence Mr W and the prospective purchaser have provided does appear to have varied over time and presents different, and often contradictory, versions of what happened. As such I agree with our adjudicator that any issues relating to the evidence given by the various parties are better suited to being considered by the courts. We cannot, for example, interview witnesses or cross examine them on oath to determine the extent and veracity of their evidence or the weight to be attached to it.

Consequently, I consider that it is most likely that Mr W was aware of the exclusion to his policy if riding the motor cycle for social, domestic and pleasure purposes. I also consider it more likely than not that at the time of the accident he was not engaged in the journey for motor trade purposes but was using it for social, domestic and pleasure purposes. I find that this usage at the time of the accident was therefore excluded from the policy. As such I consider that Covea was not obliged to indemnify him for the accident and it has done nothing wrong in declining to do so.

My role as an ombudsman is to consider the individual complaint and decide whether something has gone wrong. But a court may take a different view of the situation. Should Mr W not accept my final decision then any rights he may have to take action in the courts against Covea are unaffected and he will be free to pursue his arguments in any court action that may arise, if he so wishes.

Overall, I see no compelling reason to change the proposed outcome in this case.

my final decision

My final decision is that I do not uphold this complaint.

Stephen Cooper
ombudsman