

## **The complaint**

Mr E has complained that Ageas Insurance Limited turned down his claim for damage to a vehicle under his Motor Trade insurance policy.

## **What happened**

Mr E was driving a pick-up truck belonging to his son's company when he had an accident and the truck was badly damaged. His son was a passenger at the time and Mr E has explained he was driving the vehicle to his son's house to pick up an engine hoist.

Mr E wasn't a named driver under the policy his son's company had covering the truck, so he claimed for the damage to it under his motor traders policy. Ageas turned his claim down on the basis he wasn't using the truck in connection with his business at the time of the accident.

Mr E complained to Ageas, but they still wouldn't pay his claim. So, he asked us to consider his complaint about their decision. When they made their submission to us, Ageas also mentioned the Road Risks section of Mr E's policy doesn't cover him to drive vehicles belonging his relatives.

One of our investigators considered Mr E's complaint. He wrote to Ageas and said they should settle Mr E's claim. This was on the basis that – because he was using the truck to go and pick up a hoist – he was using it in connection with his business.

Ageas have asked for an ombudsman's decision, as they don't agree with our investigator.

In their first response Ageas said only company owned vehicles were covered under Mr E's policy. And they also pointed out that the vehicle didn't belong to Mr E, so he had no financial interest in it. They also explained again that it belonged Mr E' son and Mr E's policy didn't cover him for driving vehicles belonging to relatives.

Our investigator wrote to Ageas again explaining that the truck didn't belong to Mr E's son, it belonged to a company. And he said he still thought Ageas should settle Mr E's claim.

Ageas then came back and said Mr E didn't mention the fact that he was collecting a hoist from his son's house when he reported the claim or in a follow up email. And they think this shows he was just taking his son home.

## **What I've decided – and why**

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

The first thing I need to consider in this case is the cover under Mr E's policy. Under the Road Risks section this covers Mr E to drive *'any Vehicle which is Your property or in Your custody or control in connection with Your Business as described in the Schedule Excluding...*

4. *any motor vehicle privately owned by You or any of Your directors partners or Employees or relative of Yours or hired to them under a hire purchase agreement unless the vehicle is in Your custody or control for sale repair testing service maintenance alteration cleaning or for inspection purposes'.*

The business described in the schedule is '*Used Vehicle Sales and Mechanical Servicing and Repairs*'. This means the key considerations in deciding the fair and reasonable outcome to this complaint are whether the truck damaged in the accident was in Mr E's custody or control at the time of the accident and whether he was using it in connection with his business at the time.

I think Mr E was using the truck in connection with his business. This is because his business includes mechanical servicing and repairs and Mr E was using it to go and pick up an engine hoist, so he could pick up an engine to work on for a customer the next day. I'm satisfied with Mr E's testimony on this point, because as soon as he was asked by our investigator why he didn't use his car to give his son a lift, he said it was because he needed the truck to pick up the hoist and he explained what he needed the hoist for. Also, when I spoke to him Mr L explained the hoist wouldn't have fitted in his caddy van, due to its shape. And he needed the open back of the truck to be able to get it in. Mr E has also sent me a photograph of the hoist and I can see what he means.

I appreciate that Mr E didn't mention the hoist when he first reported the claim or in his email soon after this. But I'm satisfied that this was because Ageas didn't ask him why he hadn't used his car or van to take his son home. I think if they'd asked him this he'd have explained it was because he needed to pick up the hoist.

I also think the truck was in Mr E's control, as he was driving it at the time of the accident. I think it was in his custody as well, even though his son was also in the truck. This is because Mr E was completely in control of it and using it for his own purposes, ie to collect a hoist to use for his business.

I don't agree with Ageas that the truck belonged to a relative of Mr E's, as it is clear from the leasing agreement it belongs to a limited company. This might be a company of which his son is a director or the proprietor, but it means it is not actually owned by Mr E's son.

I have also considered Ageas's point about Mr E not having a financial interest in the truck. But I don't agree with them on this either. As I've said, I think it was in his custody at the time of the accident, so he was responsible for it. And this means he had a financial interest in it, as he was liable for any damage to it while it was in his custody.

### **Putting things right**

Therefore, because I think the truck Mr E has claimed for was in his custody and control at the time it was damaged and being used in connection with his business, I've decided the fair and reasonable outcome to Mr E's complaint is for Ageas to settle his claim.

### **My final decision**

For the reasons set out above, my final decision is that I uphold Mr E's complaint and order Ageas Insurance Limited to settle his claim in accordance with the claim settlement terms in his policy.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 6 April 2022.

Robert Short  
**Ombudsman**