

## The complaint

Mr K complains that Ageas Insurance Limited (“Ageas”) unfairly declined his legal liability claim.

Ageas use intermediaries to administer their policy and manage claims on their behalf, so any reference to the insurer within this decision should be read as including the acts or omissions of such intermediaries.

## What happened

The details of this complaint are well known to both parties, so I will not repeat everything again in detail here. In brief summary, Mr K made a claim under the landlord’s legal liability section of his policy after his tenant was injured on the stairs in his property and made a legal claim against him. But Ageas declined the claim as they said Mr K had failed to adequately maintain the staircase and keep it in a state of good repair.

Mr K complained this was unfair and referred his complaint to this service, where the matter was escalated to me to determine.

I issued my provisional decision on this complaint in February 2022. I said I was minded to uphold it and set out the following reasons:

*The policy terms and conditions state that Ageas will cover landlord’s legal liability:*

*“Up to £2,000,000 unless stated otherwise on your schedule for which you are legally liable to pay as compensation for accidental death or injury to any person or loss or damage to third party property arising directly as a consequence of your ownership of the property, including defence costs and expenses incurred without prior consent”.*

*Ageas declined Mr K’s legal liability claim citing the following exclusion:*

*“Loss, damage or injury as a result of Your failure to adequately maintain the Property in a good state of repair”.*

*However, the policy terms and conditions show that this exclusion is only applicable to section 2: Landlord’s contents; 12 Employee’s liability. Mr K has not made a claim under this section, and neither is his legal defence concerning employee liability. His claim has been made under section 3 of the policy, where this exclusion does not feature. It is not clear why Ageas has sought to decline the claim using an exclusion from another section of the policy. But given that it is not listed as an exclusion applicable to section 3, the insurer cannot decline the claim on this basis.*

*Ageas has also cited the following conditions as a reason for not paying the claim:*

*“You must take actions to prevent loss or damage to your property and ensure that your property and equipment is maintained in a good state of*

*repair”.*

*“You must take all steps to prevent incidents that may give rise to a claim and to minimise the amount payable by us”.*

*The insurer said that Mr K had not kept the staircase maintained in a good state of repair, which led to the tenant’s injury. They reached this conclusion based on a report submitted by Mr K’s carpenter, but I do not consider they have sufficiently demonstrated that Mr K has failed to comply with the above conditions.*

*The fact that the tenant was injured on the stairs does not automatically mean that the staircase was not properly maintained. The report from the carpenter states that it was ‘very unusual’ for the steps to have collapsed and that the reason for the collapse was that ‘the stair string had warped inwards’ which was also ‘very unusual in an enclosed staircase’. The expert concluded that ‘no one could have said with any certainty the step would indeed collapse’ and he also remarked that the top steps were still of ‘exceptional quality’, which one would have expected to deteriorate first.*

*So, in light of this report, it is not clear on what basis the insurer has concluded the Mr K has failed to keep the staircase in a good state of repair, or that the tenant’s injury was caused by this. Indeed, the report states that the bottom steps that gave way had previously been repaired, and that this work had been done with ‘due diligence’. Mr K also said he had previously had the staircase serviced. So everything I’ve seen indicates that action had been taken by Mr K to keep the stairs well maintained in a good state of repair. Ageas also hasn’t sufficiently demonstrated that Mr K failed to take steps to minimise the chances of a claim – for example, there’s nothing to suggest Mr K was alerted to a fault with the stairs that he failed to address before the tenant was injured.*

*Therefore, I’m not persuaded that Ageas has declined the claim fairly in these circumstances, and I intend directing it to reconsider Mr K’s claim in line with the remaining policy terms and conditions.*

*Mr K is also unhappy with the way the insurer has handled his claim, as they often failed to keep him updated and call him back when they promised to do so. And having considered the way Ageas has handled this matter – coupled with the fact that they have not acted fairly or reasonably when declining the claim – I’m inclined to agree that their handling of the claim has been significantly poor. Ageas acknowledged that the service they’ve provided has not been satisfactory and agreed to pay £75 compensation. But I do not consider this to be commensurate to the way they’ve handled the claim. I therefore intend directing Ageas to pay a further £175 on top of the £75 they’ve already offered (£250 in total), which I consider to be fair compensation in all the circumstances.*

I invited further comments and evidence from both parties. Ageas responded and explained that they had already accepted liability with the claimant’s solicitor on 23 July 2021, and their liability team are currently awaiting a medical report. Mr K said he had not been made aware of this, but did not put forwards any further submissions or evidence for consideration.

### **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.

Having done so, I see no reason to depart from the conclusions set out in my provisional decision, albeit Ageas appear to have already reconsidered the claim after initially declining it, but without informing anyone they were doing so.

Therefore, Ageas may want to inform Mr K and their intermediaries that the claim has since been accepted, as it appears neither of these parties have been made aware of this. Davies Group, for example, continued to defend the reasons for declining the legal liability claim as late as October 2021 – three months after Ageas say they accepted liability with the claimant's solicitor. Mr K has also told us that he has not been informed of Ageas's decision in this regard.

This all further demonstrates the significantly poor handling of this claim on the part of both Ageas and their intermediaries, who evidently need to improve overall communication, and further validates the increase in compensation I recommended in my provisional decision.

I appreciate that Ageas says it has since accepted the claim. But seeing as no other parties seem to be aware of this, I will still be directing the insurer to reconsider the claim and pay compensation as set out in my provisional decision. If Mr K accepts this decision, Ageas should get in contact with him as soon as possible to update him on the current status of his claim.

### **My final decision**

For the reasons given above, I uphold this complaint and direct Ageas Insurance Limited to:

- Reconsider Mr K's legal liability claim in line with the remaining policy terms and conditions;
- Pay a total of £250 compensation in recognition of the distress and inconvenience caused by their handling of the claim.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 22 March 2022.

Jack Ferris  
**Ombudsman**