

The complaint

Mr T complains that Ageas Insurance Limited (Ageas) has unfairly voided his policy.

What happened

I issued my provisional decision on this case on 22 February 2022. It was my intention to come to a different outcome to our investigator, and so I wanted to give both parties the chance to respond with anything else they wanted me to take into account.

I have copied my provisional decision below, which forms part of this final decision.

“Mr T took out an insurance policy to cover his van with Ageas. The policy began on 14 July 2020. The policy was purchased through a broker.

At some point during the policy year Mr T began modification work on his van to convert it to a campervan.

In March 2021 Mr T was involved in an incident, where he hit a parked vehicle. The third party made a claim against Mr T's policy.

It was during the processing of this claim that Mr T informed Ageas of the conversion. Ageas referred the matter to its underwriting department for consideration. It confirmed, that had it known about the conversion it would have declined to cover Mr T's van, from when the works began, as it was no longer considered a suitable risk under this policy. Ageas wrote to Mr T on 4 June 2021 telling him it considered he had misrepresented the facts when taking out his insurance and so it had avoided the policy from inception. This means it's as if the policy never existed. Ageas refunded Mr T's premiums in full.

Mr T complaint to Ageas about this, he said he had been open and honest about the conversion and had discussed it with both Ageas and the broker during the telephone calls. He thought it was unfair of Ageas to avoid his policy in this way as he would have to declare this to future insurers, which could have a detrimental effect on his premiums. Ageas obtained call recordings from the broker and listen to these along with call recordings between itself and Mr T, but said there were no calls where Mr T had discussed the conversion. It didn't uphold his complaint, so Mr T brought it to this service.

Our investigator upheld Mr T's complaint, in summary they said it wasn't fair for Ageas to say Mr T had made a misrepresentation when taking out the policy, as there was no evidence to suggest the conversion had happened or begun at that point. To put things right the investigator recommended that Ageas should:

- *pay £350 in compensation*
- *remove any void markers from internal and external databases*
- *pay the difference in premiums with Mr T's new insurer once the policy had been re-*

rated as if Mr T hadn't had an avoided policy

Ageas disagreed with the findings and so the matter has been passed to me to decide.

What I've provisionally 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.

Where there's a dispute about what happened, I've based my decision on what I think is more likely to have happened in light of the evidence. I'll keep my comments to what I think is relevant. If I don't comment on a specific point, it's not because I haven't considered it but because I don't think I need to comment on it in order to reach the right outcome.

Having read and considered the whole file, I'm currently not intending to uphold this complaint, I'll explain.

I accept that when Mr T bought his policy his vehicle was a van and had not undergone any modifications at that point. So, given this I also accept there was no misrepresentation at this point.

However, Mr T had an ongoing duty to let Ageas know about any changes that would be considered significant during the term of the policy. I'm satisfied there is a significant one as the purpose of the modifications was to change the use of the vehicle and this fundamentally changes the risk to Ageas as the insurer.

The policy confirms the need for Mr T to let it know about any changes with the following wording on page 3 of the policy booklet:

Important information

under policy condition 9 on page 20, you must tell us about any of the changes below straightaway. If you do not tell us about any changes to the information detailed on your proposal, statement of insurance or statement of fact, schedule or certificate of motor insurance it may mean that your policy is invalid and that it does not operate in the event of the claim...

- *You change the vehicle or its registration number, sell the vehicle or get another vehicle*
- *...*
- *...*
- *The vehicle is or will be:*

- *Changed from the manufacturer's original specification;*

This would include:

- *Changes to the bodywork, such as spoilers or bodykits*
 - *Changes to suspension or brakes*
 - *...*

— ...
Please be aware that this is not a full list of all possible changes – all changes made from the manufacturer's standard specification must be disclosed

*This is repeated on page 20 under policy condition 9 '**changes you must tell us about**'.*

So, I'm satisfied Ageas has done what it can to make Mr T aware of his need to let it know about any changes, and not telling it would be a breach of the policy terms.

I've considered what Mr T has said about him being open and honest and discussing the conversion with Ageas and the broker. Mr T has provided screenshots from his phone proving cause took place between him and both businesses. But these calls all took place in June 2021, after the claim had begun.

In the call on 2 June between Mr T and Ageas' claim department Mr T advises the operator that he didn't realise he had to tell Ageas before he started the work, to make sure it was okay.

So, while I appreciate that Mr T didn't try to hide the modifications, I'm satisfied he didn't tell Ageas when the work began, as he should have. And therefore, he breached the terms of the policy. As such, Ageas were entitled to put a remedy in place for this once it was aware. I don't believe in this case the remedy chose was the correct one, but having looked into things a bit further, I think it may have left Mr T in a better position than if it had chosen the right one, I'll explain.

What happened

Ageas took the following action:

- *dealt with the third-party claim, at a cost of £1600*
- *avoided Mr T's policy from inception*
- *returned Mr T's premiums in full*

This remedy means that Mr T will have to declare to future insurers that he has had a policy avoided.

What should have happened

Ageas should have:

- *declined the third-party claim – leaving Mr T to settle this himself*
- *cancelled Mr T's policy from the date that he breached the policy terms (when work began on the van – this would need to be established and if it can't be then it would be from the accident date)*
- *charged Mr T for time on cover up to the date of cancellation*

This remedy would mean that Mr T would have a cancellation he would have to declare to future insurers. Each insurer rates risks differently, so I can't say for sure if this would have the same impact on his premiums as an avoided policy does.

So had Ageas chosen the correct remedy, Mr T wouldn't have been refunded his premiums in full and would have had to pay the third-party claim himself. Which means if I was to instruct Ageas to unwind things Mr T could be in a worse position financially, as he would need to pay Ageas for his time on cover.

Given the above I minded to leave things as they are, but if Mr T disagrees and would like the correct remedy put in place then he should let me know.

Mr G will need to consider the following know if he chooses this:

- *he will have to pay Ageas for the time on cover (from policy start date until cancellation date)*
- *he will have to declare that he has had a policy cancelled to all future insurers*
- *the potential difference in impact between declaring avoided policy or a cancelled policy to future insurers. This is something for Mr T's own judgement and not something I can advise on.*

I have spoken with Ageas and it has told me it's not intending to recover the third party claim costs from Mr T so this isn't something he needs to worry about.

My provisional decision

For the reasons set out above, my provisional decision is that I don't intend to uphold this complaint."

In response to my provisional decision Mr T has confirmed that he accepts my findings and would like to leave things as they are.

Ageas has also responded saying it has no further comments to add.

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.

Given that both parties have agreed with my findings, I see no reason from my provisional decision and so I won't be upholding this complaint.

My final decision

For the reasons set out above, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 6 April 2022.

Amber Mortimer
Ombudsman