

The complaint

Miss M says Ageas Retail Limited didn't provide her with the full terms in relation to her motor insurance policy. That meant she believed her cover was different, and argues the claim should be settled along those lines instead.

What happened

In December 2021 Miss M applied for a motor insurance policy through a price comparison website. The cover was underwritten by Ageas Insurance Limited, with Ageas Retail Limited responsible for the administration involved in setting the policy up. When I've referred to Ageas below that means Ageas Retail Limited, as this complaint concerns whether Miss M had sufficient access to the policy terms from inception – rather than the insurer's handling of the claim.

Once the application was complete, Ageas sent Miss M an email prompting her to create an account – where it said she could download her policy documents. Attached to that email was a welcome letter, along with the Statement of Fact (what Miss M had entered during the sale) and a summary of the key aspects of the cover.

The welcome letter said: *"You'll find a summary of your cover over the page. Your insurance documents and policy information are enclosed with this letter and we recommend you check these thoroughly to make sure they're accurate. Please let us know if you require any changes"*. But the insurance documents weren't enclosed with the letter, so Miss M says she believed the summary to be the only terms relating to her contract of insurance.

In August 2022 Miss M's vehicle was unfortunately hit, while it was parked and unattended, by a third party who then fled the scene. CCTV showed the incident, but the third party's vehicle registration couldn't be made out from the footage – so neither the insurer nor police were able to trace them. That meant Miss M's insurer covered the loss and recorded it as a 'fault' claim against Miss M's policy, because there was no other party it could recover its outlay from (not because Miss M was in any way at fault). As the car was deemed beyond economic repair, and so a total loss, Miss M wasn't entitled to a courtesy car under the full policy terms. The insurer also offered Miss M what it calculated was the market value for the vehicle, immediately prior to the loss.

Miss M realised at that point she hadn't seen the full terms of the policy, and so raised a complaint. She was unhappy that her insurer deemed her to be 'at fault', even though the CCTV footage showed she wasn't to blame in the incident. Miss M argued that the policy wording she received suggested she would be entitled to a hire car, and a new car replacement – and the full terms shouldn't apply, as she hadn't been made aware of them prior to taking out the cover. Miss M was also unhappy she hadn't been advised to protect her No Claims Discount (NCD), and complained she was told an incorrect excess amount.

Some complaint points were responded to by the insurer. Ageas responded to say it thought the full policy terms had been made available to Miss M at inception, as it had invited her to download them via her online account. Ageas did say there had been some poor service, and confusing information around the excess amount, and offered £50 compensation by way of apology. Miss M wasn't happy with the response, and so referred her complaint to our service for review.

An investigator here didn't think the complaint should be upheld. In his view, Ageas had supplied enough information at inception to have enabled Miss M to navigate to her policy terms. He also noted the terms Miss M thought shouldn't apply were common to all motor insurance policies. So, in his opinion, the fair remedy wouldn't be to apply cover she would never have been able to achieve – even if he didn't think the full terms had been provided.

Miss M didn't accept the investigator's view and reiterated why she felt there was no reason to believe any additional documents were part of the contract. She stressed the argument she was making was a legal one, and thought her point about how the 'red hand rule' should apply hadn't been addressed. As a result, Miss M asked for an ombudsman to reconsider things. So the complaint was passed to me for a final decision on the matter.

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'm not upholding Miss M's complaint. I appreciate that will come as a disappointment to her, but I hope my explanation offers some reassurance that an independent party has reviewed what happened. In reaching my decision I've taken account of the relevant law and regulations; regulators' rules, guidance and standards; codes of practice; and what I consider to have been good industry practice at the time. When making a determination of what's fair and reasonable in a given scenario, I must have regard for the law – though I'm free to depart from it if I find that produces the fairest result.

I've looked through all of the information that's been provided to me, and carefully considered every argument Miss M has made. I mean no discourtesy by not responding at similar length to Miss M's submissions, or addressing every individual point she's raised. That just reflects the informal nature of our service as an alternative to the courts. I'll also make no mention in this decision of the aspects of her complaint that are better directed to the insurer – for instance, her complaint about how the claim was investigated, and the use of 'fault' when recording it. Instead, I've focussed on what I consider to be the two key questions for me to decide in relation to Ageas's responsibility in the matter:

- Did Ageas do enough to reasonably put Miss M on notice of the terms of her policy?
- If it didn't, what does that mean for the cover that should be applied to her claim?

Miss M's main arguments, around why Ageas didn't make her aware there were other terms that applied to her cover, centre on the incorrect statement in the welcome letter – that her insurance documents and policy information were 'enclosed' – and the general difficulty she's had in finding the terms when later following Ageas's instructions. I agree that line in the letter would have initially been confusing, but I don't agree it was reasonable to assume (in the context of all the suggestions I'll run through to the contrary) no other terms applied to her policy.

It seems that this might have been the first time Miss M bought motor insurance (going by the date she passed her test), and I've borne that in mind. She's also mentioned when taking out other policies, like home and pet insurance, she usually received a full policy booklet –

but I don't know whether those were purchased prior to this one. Meaning I've not assumed Miss M had any detailed knowledge of how this was all meant to work. But even so, I consider it ought to have been reasonably apparent that not all her insurance documents were enclosed – particularly given the main one, her insurance certificate, wasn't.

The pages in the welcome pack that Miss M believed were her full terms say: *"This document provides a summary of the key information for this product. Full information is provided in the policy documentation"*. So I don't think it was reasonable to conclude the wording on that summary page were the only terms that applied to her cover. The short bullet points it contained, like 'New car replacement', don't really make complete sense in isolation either (though I would interpret those three words on their own to mean they'll replace new cars, not you get a new car even if yours is old). But they aren't meant to be interpreted in isolation – as the top of the page makes clear, they should be read in conjunction with the full information contained in the policy documentation. I appreciate Miss M might still have thought that was the other pages in the welcome pack, but none of those other pages expanded on the summary of cover that had been given.

Throughout the messages Miss M received at inception it was repeated that she needed to set up her online account. I think that was clear instruction – and had Miss M done that then she would have seen the full terms. As soon as you go to the website Ageas directed her to, you are invited to 'view our documents' – and the first one listed is the 'Rias Car Insurance Policy Booklet'. As Miss M had taken car insurance, the policy booklet would clearly have been relevant to that cover. I appreciate Miss M might have assumed that contained the welcome pack she'd already seen – but given all the other indications that wasn't the only relevant wording, as set out above, I don't think that would have been a reasonable assumption. Documents in the online account area also eventually disappear after cancellation or cover ends – which is why she can't see them now.

Ageas could certainly have made things easier and clearer – but I think it did enough to put Miss M on notice of the full terms of her cover. So I find, on balance, she's been treated fairly. Miss M has argued that the 'red hand rule' means Ageas had to do more to highlight the other terms – so they shouldn't apply. The judge in that ruling said some clauses *"need to be printed in red ink on the face of the document with a red hand pointing to it before the notice"* can be held to be sufficient. But that was qualified as *"the more unreasonable a clause is, the greater the notice which must be given of it"*. I don't think that principle placed a greater expectation on Ageas in this case, as the terms Miss M has disputed weren't unreasonable or unusual – and the summary document did highlight all the key aspects of cover. Miss M's legalistic argument around what technically should or shouldn't form part of the contract would be better suited to court, as I can't pass judgement on the position in law.

Even if I thought Miss M hadn't been put on notice of the full terms at all, I don't think the fair remedy would be to say cover should be based on her reading of the summary page. The terms the insurer applied to her claim were common to pretty much all motor policies – and the cover Miss M believed she had doesn't exist anywhere, even for a significantly higher premium. So I don't consider it would have been fair or reasonable to have expected Ageas to fill in the gaps and make the cover something that Miss M could never have ordinarily achieved. For the same reason, I don't think she's been prejudiced by not having sight of those common motor policy terms prior to the insurer applying them to her claim.

I don't have any concerns that Miss M wasn't advised to protect her NCD, as she hadn't yet accrued any years to protect. There also seems to have been confusing information given about the excess amount, but that was eventually sorted – and the £50 compensation Ageas offered fairly accounts for any frustration and inconvenience caused. I know Miss M didn't feel Ageas had reasonably dealt with her complaint, and highlighted it had taken longer than the prescribed time limit to issue its final response. But it was only just outside that

timeframe, if at all, and I don't think that had any impact on the claim – as Miss M would still have likely disputed Ageas's answer through our service anyway, even if she'd received it sooner.

My final decision

My final decision is I don't uphold Miss M's complaint about Ageas Retail Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 1 May 2023.

Ryan Miles
Ombudsman