

The complaint

Mrs S complains that Ageas Insurance Limited declined her claim on her motor insurance policy.

What happened

Mrs S owned a motorhome that she insured with Ageas. In May 2018 she made a claim on the policy after she said the vehicle had been stolen.

Mrs S explained that she had utilised a third party to help her sell the vehicle, but he had sold it and not provided the funds to her. So she was without the vehicle or the money.

Ageas declined the claim as it said Mrs S had handed the keys over to the third party willingly, so a theft hadn't occurred and therefore there was no insured event. It also relied on an exclusion in the policy to decline the claim.

Mrs S made a complaint but Ageas didn't uphold it so she brought it to this service.

Our investigator didn't think Ageas had acted fairly and recommended the complaint be upheld. He said that the exclusion it had relied on referred to deception by a buyer, but it was the seller who had deceived Mrs S, so this wouldn't fairly apply. And he said since the incident Mrs S had found other people who had the same experience with the third party, so he thought it most likely they had always intended to steal the money for the vehicle. So he thought the loss should be reasonably considered as theft under the policy. He also thought Ageas should pay 8% interest on any successful claim settlement and pay £150 compensation.

Ageas didn't agree. It said it considered Mrs S' actions in handing over the keys to the third party to be reckless, and therefore didn't agree it amounted to theft. It also said there was no theft marker recorded against the vehicle so this showed the police also hadn't considered it theft. Finally it said if the claim were to be successful it would need to register the vehicle as stolen which would cause issues for the current owners, so this wasn't viable. Ageas asked for the complaint to be reviewed by an ombudsman.

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.

Ageas declined the claim for two reasons – as it says the theft by deception exclusion would apply and because it says a theft didn't take place.

The exclusion it has relied on is as follows:

'Loss or damage to the car caused by you carelessly or recklessly allowing a buyer, someone posing as a buyer or someone acting on behalf of a buyer to defraud or deceive you.'

This exclusion applies only to a buyer, supposed buyer or someone acting on behalf of a buyer. In this case the person that deceived Mrs S was posing as an agent acting on her behalf. They never expressed an intention to buy the vehicle themselves, or to act on behalf of a buyer. Instead they said they would sell it on Mrs S' behalf. Therefore regardless of any reckless behaviour or the presence of deception or fraud, this exclusion doesn't fairly apply in the circumstances.

So I've moved on to consider whether Ageas has acted fairly by declining the claim due to there being no theft of the vehicle.

Mrs S' policy covers her for the theft of her motorhome. However there is no definition of 'theft' contained in the policy document. Instead I have to consider what is a reasonable interpretation of the term in both everyday and legal terms. And I think a reasonable interpretation would be where a vehicle is dishonestly taken from the owner, with no intention of returning it.

I've looked at the messages between Mrs S, her partner and the agent. And it's clear that Mrs S and her partner were looking to find an appropriate agent to sell the motorhome. They asked a number of questions about the company and Mrs S has said they even visited the showroom where the vehicle would be sold. They also signed an agreement with the third party that set out their responsibilities, which included a commitment to allow Mrs S and her partner to do the final handover of the documents with the buyer before the sale was agreed.

However the vehicle was sold without Mrs S' consent. And after this the agent became evasive and the tone of his messages changed, with no reason provided for this change to the agreed terms.

And when Mrs S posted about her experience on social media she's said she had multiple people come forward to say they'd had the same experience with the same agent.

Further Ageas itself has said that it accepts the third party was a conman and that they have done the same thing to many other people.

Based on this, I think it's most likely that the agent already intended to withhold the funds of the sale when Mrs S handed the vehicle over. They went against the clear wish Mrs S expressed about being present at the sale without warning or any explanation. And are reported to have done the same to other owners. In fact Ageas has said itself that it is persuaded the agent intended to keep the funds from the sale from the start of the relationship.

So when the agent took the vehicle into its possession, I think it most likely they already had dishonest intent. So they essentially took the vehicle from Mrs S with no intention of returning the vehicle or passing on any proceeds of sale. And in those circumstances it would be reasonable to treat the loss as though a theft occurred.

Ageas has said that there is no marker against the vehicle to say it has been stolen. So this shows the police didn't consider the circumstances to have amounted to a theft. However this service isn't privy to the investigations or decision making process of the police. So this isn't something I can take into consideration here.

Ageas has also said that if the claim were to be accepted as theft under the policy then it would need to register the vehicle as stolen and this could cause problems for the current owners. However this doesn't form part of my consideration. My primary consideration is whether Ageas has acted fairly when declining Mrs S claim. And as I've found it hasn't, it's fair that it reconsiders her claim. It will then be for Ageas to reconcile how matters are

handled should the claim be successful.

For these reasons I don't think Ageas has acted fairly or reasonably by declining Mrs S' claim. And I agree with our investigator that it should consider the claim in line with the remaining policy terms and conditions. Should there be a successful claim Ageas should pay 8% interest on any amount paid from the date the claim was made until the amount is paid, to make up for the time Mrs S has been without the funds.

As the unfair decline of the claim has caused Mrs S distress and inconvenience, it should also pay £150 compensation to apologise for this.

My final decision

For the reasons I've given I uphold Mrs S' complaint and direct Ageas Insurance Limited to:

- Re-consider the claim as though a theft occurred in line with the remaining terms and conditions of the policy.
- If this results in a successful claim, pay 8% interest on any amount paid to Mrs S, from the date the claim was first made until the settlement is paid.
- Pay £150 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 16 August 2023.

Sophie Goodyear
Ombudsman