

The complaint

Miss A complains that Ageas Insurance Limited paid another driver's claim against her motor insurance policy. She wants it to increase its compensation and prosecute the other driver for fraud.

What happened

Another driver notified Ageas that Miss A had hit and damaged their parked car and they had video evidence to show this. Ageas said it tried to contact Miss A without success. So it settled the other driver's claim as total loss to avoid storage and hire costs.

When Miss A complained, Ageas agreed that it hadn't sufficiently investigated the claim before settling it. And it recorded the claim as non-fault and reinstated Miss A's No Claims Discount (NCD). But Miss A remained unhappy.

Our Investigator recommended that the complaint should be upheld. He thought Ageas should have done more to try and contact Miss A before settling the claim. He thought Ageas had reasonably restored Miss A's NCD and she could now ask her new insurer to rerate her premium. But he thought Ageas should also pay Miss A £150 compensation for her trouble and upset.

Ageas agreed to do this. But Miss A thought it should offer further compensation and that it should pursue the other driver for fraud. Miss A asked for her complaint to be reviewed by an Ombudsman, so it's come to me for a final decision.

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.

I can understand that Miss A felt upset when she learned that Ageas had paid the claim and frustrated that it hadn't made contact with her before it did so.

The Investigator has already explained that it isn't our role to decide who was responsible for causing an accident. This is the role of the courts. Instead, our role in complaints of this nature is simply to investigate how the insurer made the decision to settle the claim. Did it act fairly and reasonably and in line with the terms and conditions of the policy? And has it treated Miss A the same as someone else in her position.

Ageas is entitled under the terms and conditions of its policy with Miss A to take over, defend, or settle a claim as it sees fit. Miss A has to follow its advice in connection with the settlement of a claim, whether she agrees with the outcome or not.

This is a common term in motor insurance policies, and I don't find it unusual. Insurers are entitled to take a commercial decision about whether it is reasonable to contest a third party claim or better to compromise.

That said, we expect an insurer to reasonably investigate a claim before making its decision on liability. And Ageas agrees that, on this occasion, it failed to do this. Ageas has now provided us with its file.

I can see that after the other driver's representative contacted it to make a claim Ageas emailed and wrote to Miss A once and called her once, without success, before deciding to settle the claim. Ageas said it had contacted Miss A successfully by email on other occasions. But Miss A said she didn't receive its email or letter. I can see that they were correctly addressed. But Ageas agrees that it should have made further attempts to contact Miss A for her version of events.

Ageas said the other driver's representative told it that it had video evidence of the incident, but Ageas didn't request this until Miss A complained a year later. This wasn't then provided. Photographs of damage to the car and an engineer's report were provided and Ageas thought these were consistent with the incident circumstances.

The other driver had provided Miss A's name and address and the incident was reported to have happened nearby. Ageas was told that the other driver was incurring hire and storage costs. So it said it settled the claim on a without prejudice basis to avoid further costs. No evidence of these charges was ever provided.

I think Ageas should have done more to try and make contact with Miss A who said she was out of the country at the time. Ageas didn't ask for the video footage or the evidence of charges incurred. So I think Ageas didn't sufficiently try and contact Miss A or investigate the alleged incident before making its decision to settle the total loss claim. And I also think it should have told Miss A that it had settled the claim, but it didn't.

The outcome for Miss A was that she learned of the incident only when her premium increased at a subsequent renewal. Miss A then found that Ageas had paid the claim, and this upset her. And Miss A had to pay an increased premium for her new policy.

When a business makes a mistake, as Ageas accepts it has done here, we expect it to restore the consumer's position, as far as it's able to do so. And we also consider the impact the error had on the consumer.

Ageas has already changed how the claim is recorded on the Claims and Underwriting Exchange (CUE) from fault to non-fault and restored Miss A's NCD. Miss A can now have her new insurer reconsider her premium. And so I think that reasonably restores her position.

Our Investigator recommended that Ageas should pay Miss A £150 compensation for the trouble and upset caused. And I think that's in keeping with our published guidance for the impact the error had. So I think that's fair and reasonable.

Miss A said there had been consequences for others when she was unable to insure her car and so couldn't drive to appointments. But I can only consider Miss A's losses and I haven't seen any evidence to show that she incurred any direct losses due to Ageas' error.

Miss A also wanted Ageas to pursue the other driver for fraud. But, as the Investigator explained, that's for Ageas to decide and I can't require it to take any action against the other driver or their representatives.

Putting things right

I require Ageas Insurance Limited to pay Miss A £150 compensation for the distress and inconvenience caused by its level of service, as it's already agreed to do.

My final decision

For the reasons given above, my final decision is that I uphold this complaint. I require Ageas Insurance Limited to carry out the redress set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss A to accept or reject my decision before 8 December 2023.

Phillip Berechree
Ombudsman