

## **The complaint**

Mr B has complained that Ageas Insurance Limited held an open claim under his van insurance policy which caused his premium to be higher at renewal.

After bringing his complaint to this service, Ageas closed the claim as a 'fault' claim which Mr B was unhappy about. Ageas agreed for us to look at how it reached its decision to settle the claim as it did.

## **What happened**

A third party (TP) made a claim against Mr B's van insurance policy with Ageas. The TP said an independent witness (IW) told the TP they saw a van of the same description as Mr B's collide into their car - got out of the van to check - and then drove off. The IW told the TP he believed the driver lived on the same road.

Ageas opened a claim. Because the claim was still open when Mr B's insurance was due for renewal, the claim had an impact on the premium offered.

Ageas received statements from the TP and the IW. It arranged for an engineer to inspect Mr B's van. In response, Mr B provided CCTV footage from his neighbour. He said he didn't collide with the TP's car.

Ageas decided to settle the claim as a fault claim - so holding Mr B responsible for the damage to the TP car. It said the statements from the TP and IW along with the engineer's report were persuasive and meant it would be difficult to defend if the claim went to court.

Our Investigator recommended the complaint should be upheld. She didn't think Ageas had properly investigated the claim. CCTV was available from a neighbour of the road and this showed similar vehicles as described travelling on the day of the incident. She couldn't see that Ageas had considered this evidence even though Mr B had provided it to them.

The Investigator didn't think the engineer's findings was enough to say the damage had been caused by Mr B's van. And she asked Ageas if it had obtained a time of day when the incident occurred. Ageas confirmed it hadn't.

The Investigator recommended Ageas do the following:

- Remove the fault claim from Mr B's insurance record.
- Reimburse any additional premium Mr B has been charged as a result of the unfair liability decision.
- To any amount outstanding, add eight per cent simple interest from the date Mr B was out of pocket to the date he's reimbursed.
- Offer £300 in compensation for any upset and inconvenience caused.

Ageas didn't agree.

Mr B accepted the Investigator's findings but believes the compensation award should be more to reflect the impact the higher premium has had on him as a result of the way the claim has been settled.

## 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.

When a claim is made, an insurer opens a claim against the policy and until it has been settled and all costs have been dealt with, it remains open. Until settled, the claim is recorded as a 'fault' claim. This doesn't mean an insurer has decided the policyholder is at fault for the incident or necessarily intends to settle on that basis - but it is terminology used by insurers for claims where the costs have either been recovered (non-fault) or not yet recovered (fault). As Ageas has acted in line with insurance industry practice, I don't think it did anything wrong here.

This can unfortunately affect a customer's renewal premium, as it did for Mr B. If a claim is settled as a non-fault claim, where a customer has paid a higher premium, we expect an insurer to update the premium to reflect this so that a customer isn't out of pocket. But in this case, Ageas settled the claim as a fault claim.

We don't decide liability. This is the role of the courts. But we can look at whether an insurer has reached its decision reasonably and in line with the policy. This is a subtle but important distinction to make.

Mr B's policy with Ageas says the following when settling claims:

*"In dealing with your claim, under the terms of this policy we may:*

- defend or settle any claim and choose the solicitor who will act for you in any legal action; and*
- take any legal action in your name or the name of any other person covered by this policy.*

*We can do any of these in your name or in the name of any person claiming under this policy. Anyone who makes a claim under this policy must give us any reasonable information we ask for."*

This isn't an unusual term as I've seen similar in most - if not all motor insurance policies.

This means Ageas can make a decision which Mr B may disagree with, but the policy allows it. We don't disagree with this term in principle provided an insurer can show it has treated a customer fairly when applying it.

Ageas received two statements about the incident: one from the third party and one from an independent witness. The TP didn't witness the incident. The IW approached the TP and told them he had witnessed the incident.

I've looked at the statements provided. The IW's statement doesn't provide a description of the vehicle or the registration. The IW provided a description of the driver and a diagram to show his location and how the incident happened. The IW says he didn't see the driver leave the scene.

The TP's statement provided a description and registration of the vehicle that collided with theirs, based on what they say the IW told them - as the TP didn't witness the incident. They say the IW told them he believed the van driver lived on the same road.

The TP say they walked up the road the following day and - based on the description the IW gave them - identified Mr B's van on his drive. And having taken a photo, then asked the IW if this was the van, which he agreed. On this basis, the TP provided the registration details and a photo of Mr B's van in their statement.

Mr B provided Ageas and this service with a number of video clips of vehicles on the road that day. I think there has been some confusion caused in the Investigator's belief that footage of a vehicle similar to Mr B's was his. I agree with Ageas that there doesn't seem to

be any footage yet seen to show Mr B's van - other than some CCTV from the neighbour's drive which shows a very small section of a vehicle of the same colour as Mr B's next door.

But what I have found from only a small selection of CCTV footage provided is that there were a number of very similar vehicles that travelled back and forth on this road that day. Mr B denied being involved in the incident - and showed Ageas he had access to CCTV footage of the road for that day. The angle of the camera showed vehicles travelling right to left, so would have very likely shown the vehicle travelling from the incident, based on the IW's statement.

It isn't clear to me why Ageas didn't ask for the time of the incident as this is an important part of a witness account. And had it done so, it could have investigated further to establish if Mr B's van - or another vehicle - was in the location at that time.

The engineer reported damage to Mr B's van generally and said this wasn't unusual for its age and commercial use. The engineer said it was possible that Mr B's van could have collided with the TP car. He reported that settling the claim seemed unavoidable if the IW was considered reliable by the court.

However, putting all of the information together: the availability of CCTV showing similar vehicles to that as described but not obtaining the time of the incident to explore further - the information the TP said was passed to them by the IW, but not included in the IW statement, and the way in which the TP identified Mr B's van, I don't find that Ageas properly investigated the claim. I think it should have done more before reaching its decision.

As I've said, we don't decide liability. But I don't think Ageas treated Mr B fairly when it investigated the claim. So I agree with the Investigator's recommendations which I've set out below. I think Ageas should pay Mr B £300 compensation to reflect the distress and the impact of the way it settled the claim.

### **My final decision**

My final decision is that I uphold this complaint. I require Ageas Insurance Limited to do the following:

- Update the recording of the claim to show as a non-fault claim on all databases and provide Mr B with a letter confirming the change in the recording of the claim. This will enable Mr B to show to his current or future insurers so it can calculate any difference in premium he has paid for insurance.
- If Mr B remained insured with Ageas, reimburse any additional premium Mr B has been charged as a result of the recording of the claim as a fault claim.
- To any amount outstanding - or if Mr B bought insurance with another insurer for more due to the recording of the claim - pay interest at a rate of 8% simple interest a year from the date Mr B paid the difference to the date he is reimbursed, if reimbursement applies.
- Pay Mr B £300 in compensation for any upset and inconvenience caused.

Ageas Insurance Limited must pay the compensation within 28 days of the date on which we tell it Mr B accepts my final decision. If it pays later than this it must also pay interest on the compensation from the date of my final decision to the date of payment at a simple rate of 8% a year.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 18 January 2024.

Geraldine Newbold  
**Ombudsman**

