

The complaint

Mrs and Mr L complain about how Ageas Insurance Limited (“Ageas”) declined a claim for the theft of her car under their motor insurance policy. For ease I’ll refer to Mrs L throughout as the policy was in her name.

What happened

Mrs L had a motor insurance policy with Ageas covering her car.

Her car was stolen from outside some stables in July 2023 and she made a claim.

Her car wasn’t recovered. Ageas was concerned about some inconsistencies in Mrs L’s version of events. It asked Mrs L for her keys. She said she had only ever had one key and sent it to Ageas who arranged for it to be examined by an expert.

About six weeks after the theft, Ageas declined Mrs L’s claim. It said it was doing this because of inconsistencies in her story. It said it had reason to think that her car had been taken using a second key that she’d left in the car. It said it checked with the garage who’d sold the car to Mrs L, and it said it had supplied her with two keys.

Mrs L complained. Ageas maintained its rejection of her claim.

She was unhappy with Ageas’s response and brought her complaint to this service. She asks that Ageas pay her claim. She says she is very upset by Ageas declining her claim and she thinks it carried out minimal enquiries and its experts showed bias.

Our investigator looked into Mrs L’s complaint and thought it would be upheld. She thought it should settle with the claim plus 8% simple interest. She also thought Ageas should pay £150 for her distress and inconvenience.

Mrs L accepted the view but Ageas responded and said it thought she had left her car unlocked, which was against the terms and conditions of her policy.

Because Ageas didn’t agree, this complaint has been passed to me to make 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.

It’s important I say it’s not my role to determine how the theft occurred. My role is to consider whether Ageas behaved fairly when investigating the claim and that its conclusions are supported by the evidence.

In Mrs L’s case, Ageas initially said it was rejecting her claim on the balance of probabilities:

“...taking into consideration the evidence provided by the garage which sold the vehicle regarding the keys and the key analysis, and based on the balance of

probabilities, we do not believe that this incident has happened as described and we therefore are unable to consider your claim."

Mrs L she said only had one key for the car and she'd confirmed this to the police in her initial statement. This key was sent by Ageas to an independent key expert who reported that it showed signs of wear consistent with it being a second or spare key. It's this report that's been used by Ageas as the basis to look into the claim further. The key expert suggests a form of relay theft is most likely, if a key hasn't been used.

Ageas contacted the supplying dealer and it said this dealer confirmed it'd sold the car with two keys. I've listened to the call about this and I don't think the dealer says this – they say they "believe" it had two. It's hard for me to say whether Mrs L had one keys or two, but I don't think it's fair that Ageas use this call as the key evidence to reject Mrs L's claim.

Given that Mrs L had bought the car about nine months before it was stolen, the possibility of this one key being the original 'spare' and now Mrs L's only key seems reasonably likely to me.

Taking this into account, I don't think Ageas' initial rejection of her claim was fair and I think it should have investigated the claim further if it wanted to decline it.

Ageas also say that relay thefts take place when the key is within about eight metres of the car. Mrs L had the key in her coat pocket. Ageas said it measured the distance between her and her car as being over 11 metres, but Mrs L said she was about 3-4 metres away through a wall. I can't see that Ageas discussed this with Mrs L.

CCTV footage of the theft is available. There seems to have been some confusion about this as Mrs L initially thought a nearby pub may have some. Then better footage was available from within the stables. This footage wasn't requested by Ageas until after this service became involved. Mrs L refers to it several times in her correspondence with Ageas and from reading the file I think there's been a misunderstanding of the exact nature and location of the footage between the two parties.

The video shows a third-party vehicle driving into the yard. It manoeuvres next to Mrs L's car. It appears that her door handle is tried, but the angle is obscured. And within about one minute, the thief repositions their car, opens her car, starts it and drives away, followed by the third-party vehicle.

The police reported this same third-party vehicle was involved around the same area on the same date in another attempted relay theft.

Ageas reviewed this video evidence about five months after the theft, it said it would decline Mrs L's claim using this part of its policy wording:

"What is not insured -

Loss of (or damage to) the car:

When no one is in it, unless all its windows, doors, roof openings, hood and boot are closed and locked and all keys or devices needed to lock the car are with you or the person authorised to use the car."

When Ageas use an exclusion to repudiate a claim it's essential that it provides evidence about this.

I've considered whether it was fair and reasonable for Ageas to rely on this exclusion and decline Mrs L's claim. Ageas said that the CCTV footage doesn't show the car's hazard lights flashing when the car is unlocked to be stolen. Mrs L says she locked the car before she went into the stables.

In its evidence, Ageas hasn't shown Mrs L failed to lock her car, but it says the CCTV shows it didn't unlock for the thief. Which is why it's used the exclusion above.

I've thought carefully about this. I've said above that I don't think Ageas has reasonably shown that a second key was used to steal the car.

The key expert has said that the car was likely taken by either a second key, or the relay method. And I've said above I don't think Ageas has reasonably proved a second key was used.

Ageas has said the relay theft couldn't have happened due to Mrs L's location, but Mrs L says its assumptions are wrong and she was much closer than eight metres of the car.

From the evidence provided and the key expert's report, I think it's more likely than not that Mrs L's car was taken by the relay method. What this means is that it wouldn't have mattered whether Mrs L's car was locked or not. Her proximity to the car would have meant it was stolen anyway using the relay method.

I appreciate Ageas has an exclusion dealing with whether the car was locked or not, but in this case I don't reasonably think the actual status of the locks on the car were relevant to its theft due to the method the thief likely used to steal it.

I'd also point out that the apparent trying of the door handle in the footage I mention above seems to demonstrate that the car was locked. I say this because the door doesn't seem to open when tried, although the angle isn't clear. I mention this here because if the car was locked when the door was apparently tried, then Ageas' exclusion can't apply.

It follows that I think the fair solution is that Ageas settle Mrs L's claim for the theft of her car. And I think it should add interest to this amount at 8% simple from the date of the theft to the date payment is made.

I've also thought about Mrs L's distress and inconvenience following the theft of her car. She's talked about her family and the upset it caused her and them. I've said above that I don't think Ageas' investigation of the claim was adequate. Mrs L has pointed out several areas where Ageas said her evidence was contradictory or incomplete.

I can see that Ageas' poor decision making and investigation of her claim has caused Mrs L upset and I think compensation of £150 is the appropriate amount it should pay her.

My final decision

It's my final decision that I uphold this complaint.

I require Ageas Insurance Limited to:

- Settle Mrs L's claim on the remaining policy terms. Interest at 8% simple should be added to this, from the date of the theft to the date payment is made.
- Pay Mrs L a total of £150 for her distress and inconvenience.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs L and Mr L to accept or reject my decision before 7 March 2024.

Richard Sowden
Ombudsman