

## **The complaint**

Mr S is unhappy that Ageas Insurance Limited is seeking to proportionately reduce the settlement he's due for a fire damage claim he made on his buildings insurance policy.

## **What happened**

There has been extensive background to this complaint as the claim has been ongoing since 2022. I don't intend to restate the full background, as both parties are fully aware of everything that's happened. Instead, I'll focus on the issues which remain in dispute and which I think are key to delivering a fair and reasonable outcome.

Mr S held a home insurance policy with Ageas which was inceptioned in 2020 and which renewed in 2021 and 2022. In August 2022, Mr S logged a claim with Ageas for fire damage to his home.

Ageas appointed various experts to investigate the damage and validate the claim on its behalf. But concerns arose over the level of cover Mr S had. When he took out the policy, Mr S said the cost to rebuild his home and outbuildings was £250k. This amount was index linked which meant the sum insured at the point of the claim was around £288k. But Ageas's experts estimated this ought to have been closer to £530k.

Based on this, Ageas concluded Mr S was underinsured. Had Mr S declared the higher rebuild cost during the 2022 renewal, Ageas said it would have charged him around £1,097 in premiums, rather than the roughly £595 he actually paid based on the £288k rebuild estimate. Based on this, it said it would only settle 54% of the fire damage claim – equal to the proportion of premiums Mr S had paid. After some dispute, Mr S eventually accepted a cash settlement offer of around £150k.

Mr S also made several complaints during the life of the claim about delays to the progression and decision on his claim. He says these had a big impact on him due to his health, and the fact he was living on site in a caravan with no utilities for a significant period. Ageas issued several final response letters to Mr S's complaints. Between these Ageas acknowledged various delays and communication issues and offered Mr S a total of £200 compensation.

One of our investigators considered Mr S's complaint and thought it should be upheld. He said Ageas' delays and service failings had a significant impact on Mr S and so it should pay an additional £500 compensation.

In terms of the underinsurance, our investigator said Ageas hadn't issued a substantial response to Mr S's concerns about the fairness of its approach. He also said it hadn't appropriately evidenced what information it told the broker who sold Mr S the policy to gather for it, and that it hadn't provided suitable evidence of the impact the alleged underinsurance would have had on the premiums. In the absence of this evidence, he said it was unfair for Ageas to apply a proportionate reduction to the settlement and so it should settle the claim in full, plus 8% simple interest on the difference between the amount paid and the amount due.

Mr S accepted our investigator's findings. Ageas responded to confirm it accepted the recommendation of additional compensation. But it didn't agree with the underinsurance element. It later provided call recordings from the sale of the policy to support its position.

Our investigator considered this, but it didn't change his view. He said the sales calls were one piece of information he needed, but he reiterated that Ageas still hadn't provided a substantive response to the fairness of the proportionate reduction or appropriate evidence to support that the premiums would have increased to the extent Ageas said they would have.

So, as no agreement had been reached, the complaint was passed to me to decide. I was minded to reach a slightly different outcome to our investigator. So, I issued a provisional decision to give the parties the opportunity to reply before I reached my final decision.

In my first provisional decision I explained that I thought Mr S's complaint should be upheld as although I was persuaded that Ageas wasn't at fault for Mr S being underinsured, I thought it hadn't done enough to evidence the impact the underinsurance would have had on Mr S's premiums. So, in the absence of that evidence, I said it wasn't fair for Ageas to proportionately reduce the claim settlement. I also said Ageas should pay Mr S an additional £500 compensation for the avoidable distress and inconvenience it had caused him.

In response to my first provisional decision, Ageas provided further evidence to demonstrate the impact the underinsurance had on the premium it would have charged Mr S. Because of this, I issued a second provisional decision, explaining why this additional evidence changed my view of what was fair and reasonable. Here's what I said in my second provisional decision:

***"What I've provisionally decided – and why***

*I've considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.*

*I've also carefully considered the responses to my provisional decision. Having done so, while I appreciate it will be very disappointing for Mr S, I'm minded to change my mind about what Ageas needs to do to fairly resolve the claim and complaint. I'll explain why.*

*In my provisional decision, I explained I was persuaded that Mr S understood that he needed to provide an estimate for rebuilding his property and outbuildings from scratch, and that I didn't think he had done so because his estimate had no reasonable basis. This means I don't consider that Mr S ended up underinsured because of something Ageas did wrong.*

*I also explained that in situations like this, Ageas has certain remedies available to it which include being able to proportionately reduce the claim settlement due, so long as it can evidence that the underinsurance would have had an impact on the premiums.*

*In my provisional decision, I said Ageas had failed to evidence this and so it would be unfair for it to proportionately reduce the claim settlement in those circumstances. But I made it clear that if Ageas were to provide such evidence, I'd likely need to review my findings.*

*In response to my provisional decision, Ageas has provided evidence to show that if Mr S had provided the rebuild cost as £532,549 at the 2022 renewal, the premium it would have charged would have been £1,097.58. So, I've now been provided with persuasive evidence that Mr S being underinsured would have had an impact on the premium Ageas would have charged. Because of this, I no longer think it would be fair or reasonable for me to direct Ageas to settle Mr S's claim in full.*

*However, I do remain of the view that the proportionate settlement Ageas has currently paid is unfair, on the basis that it has been based on a rebuild estimate which has been calculated using the wrong rates. In my provisional decision I said the figure of £532,549 was based on November 2022 rates rather than May 2022, and so shouldn't be relied on. Ageas has since confirmed it was based on October 2022 rates, rather than November 2022. But regardless of this, I still maintain that a fair and reasonable proportionate reduction must be based on what a reasonable estimate of the cost to rebuild would have been in May 2022. And I'm not persuaded that using October 2022 rates is likely to deliver this, for the reasons I set out in my provisional decision.*

*That is because I think it's likely that the rebuild cost would have increased between May 2022 and October 2022, and so relying on a more recent estimate of the rebuild cost would likely be unfairly detrimental to Mr S. Given the sums involved, even a very small difference in the rebuild cost estimates and premium calculations could have significant implications on the value of the overall claim settlement. And so, it's important that the calculations are done properly to ensure Mr S receives a fair settlement.*

*Therefore, in order to fairly resolve Mr S's claim and complaint, I think Ageas needs to recalculate a reasonable estimate of the rebuild cost based on May 2022 rates. It then needs to recalculate the premium it would have charged had that estimate been provided by Mr S in May 2022. It should then adjust the claim settlement based on the difference between the premium it would have charged, and the premium it did charge.*

*As explained in my provisional decision, Ageas should also add 8% simple interest to any additional amount it ends up owing to Mr S (assuming there is one), from the date it paid the initial claim settlement until the date of payment, to compensate Mr S for being deprived of the use of funds he was entitled to under his policy.*

*I also explained in my provisional decision that an overall figure of £700 compensation should be paid to Mr S for the impact of the service issues he'd experienced. However, I'm now minded to increase this figure.*

*This is because, I think Mr S has suffered from additional avoidable distress and inconvenience due to the calculation issues Ageas caused and the resulting delays – including the delay in providing the appropriate evidence to the Financial Ombudsman Service. I think Ageas ought reasonably to have based its calculations on May 2022 rates from the outset and so calculated a fair proportionate reduction without the need for Mr S to have to raise a complaint and pursue it through the Financial Ombudsman Service in order to get what he is reasonably entitled to. So, in addition to the £700 both sides have already accepted (£200 offered by Ageas initially and £500 recommended by our investigator) I'm minded to award a further £300, taking the total compensation due to Mr S to £1,000.*

*I appreciate this compensation will not enable Mr S to complete all the necessary repairs to his home. But as explained, I think it is fair for Ageas to pay a proportionate settlement, so long as it is calculated appropriately. The compensation I'm minded to award is separate to the claim settlement, as it is only intended to compensate for the avoidable distress and frustration Mr S has suffered because of the things Ageas has done wrong."*

I asked both sides to provide any final comments or evidence they wanted me to consider within two weeks.

Mr S responded to convey his disappointment at the provisional change in outcome. Mr S reiterated that regardless of any underinsurance, he had paid the full premium for £250k (index linked) of cover and that no claim was made for the outbuildings as they weren't damaged. Mr S said the length of time this has been ongoing has been hugely distressing and has impacted his health.

Ageas didn't provide a response, and the deadline to do so has now passed. So, I'm moving forward with my 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've also carefully considered the responses to my second provisional decision. Having done so, my conclusions remain the same as outlined in my second provisional decision. I'll explain why.

I can fully appreciate Mr S's disappointment given my first provisional decision set out that I was minded to fully uphold his complaint. But I made it clear within that provisional decision that my intention to uphold the complaint was based on the fact Ageas hadn't adequately evidenced the impact the underinsurance would have had on the premiums it would have charged. And I specifically explained that if Ageas were to provide such evidence in response, it would likely mean needing to review my findings – which is what happened.

Ageas has now provided sufficient evidence to persuade me that had Mr S provided a more reasonable estimate of the rebuild costs, it would have charged a significantly higher premium. And based on this, I remain of the view that it can fairly and reasonably proportionately reduce the settlement.

Mr S has highlighted that regardless of any underinsurance, he paid for around £288k worth of cover and that that amount is sufficient to cover the full repairs required. He simply wants to receive the limit of the cover he paid for.

I can understand Mr S's perspective here, but I don't agree that it would be fair to direct Ageas to pay up to the policy limit in these circumstances. I say this because Ageas would not have accepted the risk it took on, for the premium Mr S paid, had it better understood the cost of rebuilding the property in the event of a claim. Had the rebuild cost estimate been more reasonable, Mr S would have been charged significantly more than he paid.

I set out within my first provisional decision that the Financial Ombudsman Service has a published approach to dealing with complaints about underinsurance for home insurance policies. The approach is in line with the principles of the insurance law which covers, among other things, the sale and renewal of insurance policies. And the approach is that where a policyholder is underinsured and the insurer can evidence that, but for the underinsurance, it would have charged a higher premium, it can proportionally reduce any claim settlement due, based on the difference between the premium it charged and the premium it would have charged had the policyholder not been underinsured. I consider it is fair and reasonable to follow this approach in the circumstances of Mr S's complaint.

That said, as outlined in my second provisional decision, I think the premium calculations Ageas has based its proportionate settlement on, to date, were unfair. This is because they were based on a rebuild estimate from October 2022 instead of May 2022, when the policy renewed.

So, to fairly resolve Mr S's claim and complaint, I think Ageas needs to recalculate a reasonable estimate of the rebuild cost based on May 2022 rates before recalculating the premium it would have charged had that estimate been provided by Mr S in May 2022. Ageas should then adjust the claim settlement based on the difference between the premium it would have charged, and the premium it did charge.

As explained in my provisional decision, Ageas should also add 8% simple interest to any additional amount it ends up owing to Mr S (assuming there is one), from the date it paid the initial claim settlement until the date of payment, to compensate Mr S for being deprived of the use of funds he was entitled to under his policy.

I also set out in my provisional decision that Mr S had suffered from substantial distress and inconvenience as a result of Ageas's handling of his claim and complaint. Ageas already acknowledged several failings and offered £200 compensation and later accepted the recommendation of the investigator to increase this to a total of £700. But I remain of the view that £700 doesn't go far enough to put right the impact of Ageas's failings. So, in addition to recalculating the rebuild estimate and subsequent claim settlement, I think Ageas needs to pay Mr S a total of £1,000 compensation.

### **My final decision**

For the reasons explained above, and in my provisional decisions, I uphold Mr S's complaint in part.

Ageas Insurance Limited must:

- Recalculate the rebuild cost based on May 2022 rates.
- Recalculate the premium it would have charged based on the recalculated rebuild cost.
- Recalculate the proportionate claim settlement based on the difference between the premium Mr S paid and the recalculated premium Ageas would have charged, had Mr S provided the recalculated rebuild cost estimate in May 2022, and pay Mr S any additional settlement he is due.
- To the difference between the amount already paid and the amount due to Mr S (if there is one), add 8% simple interest\* from the date the earlier settlement amount was paid, until the date of settlement.

- Pay Mr S an additional £800 compensation for the distress and inconvenience it's poor handling of the claim and complaint have caused him – taking the total compensation paid for this complaint to £1,000.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 16 October 2024.

*\*If Ageas Insurance Limited considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr S how much it's taken off. It should also give Mr S a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.*

Adam Golding  
**Ombudsman**