

The complaint

Mr R complains that Ageas Insurance Limited unfairly declined a claim and avoided his motor insurance policy.

What happened

Mr R bought a second-hand vehicle. In August 2023, he took out a motor insurance policy with Ageas via a price comparison website. In January 2024 his vehicle was stolen. He made a claim on his insurance.

As part of its investigation, Ageas found that Mr R's vehicle had been modified from the manufacturer's standard specifications. Specifically, a 'snorkel' had been installed – this is an air intake system designed to give the engine access to clean air and improve its performance.

Ageas said: *"Had all the true facts been disclosed to us at point of quotation we would not have offered cover, as the risk being proposed to us would have been unacceptable."* It declared the policy void from inception and declined Mr R's claim for his stolen vehicle. It advised him to discuss a refund of premiums with his broker.

Mr R complained to this service. He said, in summary:

- It wasn't reasonable for an ordinary customer to think the snorkel should be considered a modification.
- He shouldn't have been sold this type of policy for his vehicle.

Our investigator didn't recommend the complaint should be upheld. She explained that the relevant law in this case is the Consumer Insurance (Disclosure and Misrepresentation) Act 2012 (CIDRA). This requires consumers to take reasonable care not to make a misrepresentation when taking out an insurance policy. The standard of care is that of a reasonable consumer.

Our investigator was satisfied that the snorkel was a modification from the manufacturer's standard specification. She thought Mr R should have disclosed this when he took out the insurance. She was satisfied that Ageas wouldn't have offered the policy if it had known about the snorkel and that it had acted fairly – and in line with CIDRA – by avoiding the policy and declining Mr R's claim.

Mr R didn't agree so the case was 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.

First, ombudsmen decisions are published so are written in a way that prevents the customer from being identified. The make and model of Mr R's vehicle is known to both

parties so I'm not going to set this out in detail here. If I'm vague about this it's to keep Mr M from being identified.

Second, while it looks like Mr R bought the policy through an insurance broker, he applied via a price comparison website. Either way, Ageas wasn't involved in Mr R's decision to buy the policy and didn't offer any advice about it. So I can't hold Ageas responsible if the policy wasn't suitable for his needs. I understand Mr R has a separate complaint against his insurance broker, so I won't cover that here.

Mr R has made several points about why Ageas should settle his claim. In summary:

- He doesn't accept that the question about modifications was clear when he bought the policy.
- The examples listed by Ageas are different from a snorkel.
- The vehicle has had six previous owners since 2002. How could he check if the vehicle was different from when first manufactured?
- He doesn't believe that Ageas wouldn't insure a vehicle with a snorkel.

He also referred to the British Insurance Brokers' Association (BIBA) 2019 '*Report on Modified Vehicles*', published in partnership with Ageas. He questioned why Ageas would sponsor the report if it didn't offer this type of insurance. He pointed out that the report included a photo of the same make of vehicle as his own, with the same modification.

CIDRA requires an insurer to ask clear questions, so I've looked at what Mr R was asked when he took out the policy.

Ageas supplied a screenshot of the question Mr R was asked on this website. It is: "*Has the van been modified in any way?*" The website included a note that said: "*A vehicle is considered modified if it has been changed in any way since it was first supplied by the vehicle manufacturer.*" It gave examples of modifications, including changes to bodywork, cosmetics, and the engine management system or exhaust system. The broker's separate proposal form asked a similar question: "*Has this vehicle been changed in any way from the vehicle manufacturer's standard specification.....?*" I'm satisfied that Mr R was asked clear questions.

Mr R says the snorkel shouldn't be considered a modification and wasn't in the examples listed on the website or proposal form. I disagree with him. I think the examples listed on the website are helpful but not exclusive. A snorkel is a sizeable piece of equipment that must be installed on a vehicle. It impacts both the bodywork and the engine management system, so I think it meets the criteria set out in the website note.

I accept that the snorkel was already on the vehicle when Mr R bought it. However, while they might be relatively common on this type of vehicle, I don't think a reasonable consumer would assume that it was part of the manufacturer's standard specification. I think this might have been checked. Mr R argued that it was impossible for him to know this, but I don't think he needed to. The website advised: "*If you are unsure whether changes to the vehicle are classed as a modification, please check with your chosen provider before purchasing.*" I think a reasonable consumer might have checked with Ageas whether a snorkel needed to be declared.

Finally, I recognise that Mr R wouldn't have read the BIBA report before he took out the policy. However, I think it's worth noting that the report lists a snorkel as a modification which needs to be declared to an insurer. This shows that it's accepted as a modification by the insurance industry so Ageas' decision to do this isn't unreasonable.

I think Mr R might have made further enquiries when he took out his policy – either by contacting Ageas or his broker – to check if his vehicle had modifications he needed to declare. This means I don't think he took reasonable care when he answered questions about modifications to his vehicle.

Mr R doesn't believe Ageas wouldn't have insured his vehicle if it had known about the snorkel when he took out the policy. However, Ageas has provided underwriting evidence to show that it wouldn't have offered cover if Mr R had declared the snorkel. So I'm satisfied that Mr R made a "qualifying misrepresentation" under CIDRA.

Ageas treated the misrepresentation as careless, rather than deliberate or reckless. I agree. In these situations CIDRA says: *"If the insurer would not have entered into the consumer insurance contract on any terms, the insurer may avoid the contract and refuse all claims, but must return the premiums paid."*

So while I'm satisfied that Ageas was entitled to avoid Mr R's policy and decline his claim, it should refund his premium payments. I understand it had already agreed to this. Mr R should contact his broker if it hasn't done this yet.

My final decision

My final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 24 December 2024.

Simon Begley
Ombudsman