

## **The complaint**

Miss A complains about the way Ageas Insurance Limited handled a claim she made on her motor insurance policy.

## **What happened**

In August 2024 Miss A was involved in an accident whilst driving. She was pulling out from a minor road, intending to cross the two lanes of oncoming traffic to reach a central reservation. Her intention to join the westbound carriageway on the other side of the central reservation. She said as she was proceeding across the dual carriageway, she was hit by a third party (TP) who had moved over into the outside lane. She didn't think she was at fault for the accident and made a claim on her motor insurance policy. Ageas carried out investigations but in December 2024 it ultimately said it would settle the claim as a 'fault' one, on a without prejudice basis.

Miss A complained about Ageas' decision, she said it had simply looked at the road layout and accepted liability without properly assessing the other evidence. She said it hadn't obtained a police report, and didn't follow the recommendations provided by its own agents (who had suggested a 50/50 liability split might be appropriate). She also said Ageas had claimed there was no evidence the TP was speeding or driving carelessly, but there was a witness statement which supported that was the case.

Ageas didn't accept it had acted unreasonably, it said it agreed liability as she was emerging from a minor road onto a major road. It said the TP had right of way on the major road and so it would be difficult to successfully defend a claim Miss A was at fault in court.

Unsatisfied with Ageas' response, Miss A referred her complaint to the Financial Ombudsman Service for an independent review. Our Investigator didn't think Ageas had made an unreasonable decision in settling the claim as it had. He also didn't think Ageas had handled matters poorly. He said whilst it could have shown more empathy given Miss A was deeply affected by the accident, he felt Ageas had acted professionally in reviewing the claim.

Miss A didn't accept that outcome and asked for an Ombudsman to consider matters. She said witness statements have been accepted in court as valid evidence in terms of determining if a TP was speeding or driving recklessly. She said Ageas' agent had recommended a 50/50 liability split, which would've been a reasonable outcome. She remained unhappy that no police statement was obtained, and that Ageas hadn't asked the TP insurer whether the TP was a named driver on the policy. She felt this was important as he'd told her he used the car every day for work but shouldn't have been if he was only a named driver.

She further added that information given by Ageas was misleading. It had told her to log a personal injury claim which it knew would be declined, it should've referred her to her legal expenses' provider. And she didn't understand what a 'without prejudice' settlement meant.

## **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.

As this is an informal service, I'm not going to respond to every point made or piece of evidence referred to by the parties. But I'd like to reassure both Miss A and Ageas that I've read and considered everything provided.

### *Ageas' liability decision*

I've first considered how Ageas dealt with the liability issue. This Service doesn't decide who's at fault for an incident. That's the role of the courts. Instead, we look at whether the insurer acted in line with the policy terms and made a fair and reasonable decision. Miss A's policy terms allow Ageas to defend or settle any claim on her behalf. That means it might make a decision she disagrees with, but the policy allows it to do so. I can consider if its decision was reasonable.

Ageas' position is that it settled the claim and accepted liability on Miss A's behalf because she was pulling out from a minor road onto a major road at the point the impact occurred. It said because the TP was proceeding down the major road – which was a dual carriageway – it had right of way on the road. As a starting point, I don't think this was an unreasonable stance for Ageas to take given it is the responsibility of someone pulling out of any road to ensure it is safe to do so.

When Ageas spoke to her about the accident, Miss A didn't agree that her pulling out meant she was at fault. She said she didn't see the TP vehicle as she was pulling out of the junction. She said two vans were turning left into the minor road that she was coming out from. She said she couldn't see any vehicles behind the two vans, and thought the road was clear to cross. She said as she crossed over into the outside lane of traffic to reach the central reservation, she saw a glimpse of something black (which was the TP vehicle) and then felt the impact. Miss A said the TP was a young driver, had been speeding and was driving without due care and attention. She felt he'd pulled into the outside lane (from behind the vans) at speed and hit her as she was proceeding across the outside lane of the dual carriageway. She said liability shouldn't be attributed to her as she had a witness statement (from a driver who was behind the TP at the time of the accident) who supported that the TP's driving was the cause of the accident. She also said Ageas' agent, who'd carried out an investigation, said a split liability might be achievable.

I think it's worth setting out to Miss A at this stage that, even had Ageas been able to secure a split liability decision, this would still mean Miss A was 'at fault' for the accident, and the claim would still be recorded on her policy as a fault claim.

Having considered all of the evidence, I don't think Ageas were unreasonable in not pursuing the matter to court to attempt a split liability (or a no liability) decision. Ageas did carry out investigations, instructing its agent to obtain witness statements. Ageas' agent concluded "*if we are to argue any contributory negligence, dashcam footage and witness statements will be vital*". Unfortunately, Ageas wasn't able to secure any dashcam footage; Miss A's witness said her camera hadn't recorded the incident, and Miss A didn't have a dashcam. Miss A says the TP confirmed he had footage and she thought a relative of the TP had removed it from the vehicle at the scene of the crash. I can see Ageas did request the dashcam footage from the TP insurer on a number of occasions, but it wasn't provided. And it isn't something Ageas can require as part of its investigation. I consider its attempts to retrieve the footage were reasonable. Whilst I can understand Miss A's frustration in that not being provided, particularly when she felt it would aid her position, I can't fairly decide Ageas acted unreasonably or unfairly in this respect.

So without dashcam footage in support of Miss A's position, Ageas had the independent witness statement. Miss A says these have been accepted in court before. I agree that's

likely the case, but I don't think Ageas made an unreasonable decision not to proceed to court on the basis of the witness statement. The road Miss A was travelling on was a national speed limit road, although it did reduce to a 50mph road shortly after the junction where the accident took place. On the statement the witness was asked to estimate the speed of the TP, she replied "*about 50mph*". I don't consider this supports an allegation of speeding. The witness did say she considered the TP wasn't driving with due care and attention, but I'm not persuaded this means Ageas acted unreasonably in not pursuing the matter to court. Ageas felt that as Miss A had said she couldn't see any vehicles behind the vans, and proceeded to pull out, this would likely not be a successful defence at court. I'm not persuaded the age of the TP would've made a court find in her favour. Having considered all of the avenues Ageas pursued, I don't think it ultimately reached an unreasonable decision.

I know Miss A feels Ageas should've done more to support her, but I think it did carry out a reasonable investigation. It did contact the police for a collision report, but the police said without a collision reference number, it wouldn't be able to find it. The police told Ageas that Miss A would've been provided with the number at the scene, Miss A said she didn't have it. But whether Miss A was provided it by the police or not, Ageas not having that reference number wasn't down to a failure on its part.

I appreciate Miss A feels strongly about the claim. She felt Ageas should've pursued matters as the TP was using the car for commuting, even though he was only a named driver on the policy. Ageas explained that whether the TP was in breach of the terms of his policy wouldn't impact any liability decision in court. I don't think Ageas was unreasonable in concluding that. That is really a matter between the TP and his insurer, it's not, in itself, evidence that Miss A wasn't responsible for the accident. I can understand why Miss A felt she was having to do a lot of work in contacting witnesses and the police. But I think that was always likely to happen as it was her who'd pulled out into oncoming traffic. The starting position is that the person proceeding from a minor road to a major one is most likely to be held at fault, as they must give way to oncoming traffic. So I think the burden was always going to be on her to show why she shouldn't be held at fault.

Ageas' agent did recommend a locus report be carried out, which Ageas didn't do. Miss A says this would've shown that, owing to a curve in the road, she'd have never been able to see the TP before starting her manoeuvre. But I don't think Ageas was unreasonable in saying that, whatever the road layout, Miss A shouldn't have started her manoeuvre if she couldn't see that the road was clear beyond the two vans turning left.

I appreciate this must have been a frightening accident to be involved in, and one that resulted in Miss A being injured. But my role is to decide if Ageas made a reasonable decision, based on the information it did have, and for the reasons set out above, I find that it did.

In January 2025, Ageas confirmed to Miss A that settling the claim on a 'without prejudice' basis meaning it won't make a binding admission of liability to the TP insurer. It confirmed it would do so in order to allow Miss A to use her legal cover to pursue the matter herself, given her personal injury claim. I can see this had been discussed with Miss A on a phone call too, but she wasn't sure what that meant and how it was of benefit to her. I think Ageas reasonably answered her queries on this. And as the legal cover wasn't provided by Ageas, but another insurer, Ageas referred Miss A to the broker to discuss this further, I think it was reasonable for it to do that.

*Handling of the claim*

Miss A says Ageas didn't support her in pursuit of her personal injury claim. In September 2024 Ageas directed Miss A to its portal to start the process of logging an injury claim. Miss A says this was incorrect advice, and she should've been told at an earlier stage that she could use her legal cover to pursue her own claim. I can see Ageas did tell Miss A in November 2024 that the legal cover could only be accessed once the insurers had resolved the liability issue. I don't think this was misleading information. The challenge for Miss A in pursuing her own claim through the TP insurer at an earlier stage was that the TP was disputing liability. So whilst she was able to start a personal injury claim, that was only going to be successful if Ageas could secure an admission of liability from the TP insurer, or risk the matter going to court and the judge finding in Miss A's favour.

Miss A said Ageas obstructed her subject access request by removing data. She said the Information commissioner's office (ICO) had told her it had redacted information that it didn't need to. As the body responsible for data, I consider the ICO would be the appropriate body to refer any concerns to in this respect. But I can't see, from what Miss A provided me, that Ageas removed information that would've shown she wasn't at fault for the accident. So, I don't find it treated her unfairly – in respect of the liability dispute – in redacting certain parts of the information sent.

I realise Miss A will be disappointed to read this decision, and I can understand that making a claim, especially one following a serious incident, will be stressful. But for the reasons set out above I think Ageas made a reasonable decision to not pursue the liability claim to court. I also think it progressed the claim in a reasonable manner and answered any queries Miss A raised. Whilst I don't doubt this has been a challenging time for Miss A, I don't find Ageas failed in its handling of matters, and so I'm not going to require it to pay any compensation.

### **My final decision**

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss A to accept or reject my decision before 20 May 2025.

Michelle Henderson  
**Ombudsman**