

The complaint

Mr W has complained that his commercial vehicle insurer, Ageas Insurance Limited ('Ageas') unfairly avoided his policy saying he hadn't declared that his vehicle had been modified.

What happened

I issued a provisional decision regarding this complaint earlier this month. An extract follows:

"In May 2024 Mr W took out an insurance policy for his van through an insurance intermediary I will refer to as 'A'.

In August 2024, Mr W was involved in an accident which he said wasn't his fault and which resulted in his vehicle being declared a total loss. Because the third party which Mr W believes caused the accident couldn't be identified, Mr W made a claim on his own policy.

After assessing the vehicle as a total loss- which led to it being destroyed due to being a category A (not suitable for repair) salvage- Ageas decided to avoid Mr W's policy and reject the claim. It said the reason for this was because Mr W hadn't declared a number of modifications including a side roof awning, internal modifications such as the creation of a bed area and storage and exterior graphics. It also said it had become aware of a speeding offence Mr W hadn't declared. But it said it considered the misrepresentation to have been careless and returned Mr W's premium.

Mr W didn't agree and raised a complaint. He said that there were no permanent modifications but items he needed to enable him to use the van for recreational purposes. He said the graphics consisted of some stickers on the bonnet which were added by the previous owner. In relation to interior modifications, Mr W said this consisted of a temporary shelf which is removable and which he tends to keep in his shed. He said the awning was removable and simply part of the roof rack. He added that, in any event, A's website did not list these as modifications which had to be declared when he took out his policy.

Ageas didn't uphold the complaint. It said that Mr W was under a duty to take reasonable care to provide accurate and complete information. Ageas said A's website asked whether the vehicle had been changed from the manufacturer's standard specification and this was also in the statement of fact document. It said there was a side awning, internal alterations and graphics which cover the majority of the vehicle not just 3% as Mr W had previously stated. Had the modifications been declared, specifically the awning and the internal alterations, Ageas wouldn't have offered cover.

Mr W then brought the complaint to our service. He said that he lost the entire value of his van which was insured for £35,000. Furthermore, the avoidance on his record and the potential impact on his 16 years no claims discount (NCD), make it harder for him to find other insurance or it is considerably more expensive. He said he is no longer able to afford another recreational vehicle which impacts his quality of life.

One of our investigators reviewed the complaint and thought it should be upheld. Our investigator didn't think that the graphics had to be declared based on the question Mr W was asked by A. Furthermore, she didn't think the awning had to be declared either as it wasn't fixed directly to the van but to the roof rack and is detachable. Our investigator also didn't think the van had been converted into a campervan as the temporary shelves were removable. She did however think Mr W should have declared the speeding offence. Ageas said had the speeding offence been declared it would have charged a higher premium. So, our investigator said it should remove the avoidance, reinstate the policy, reassess the claim and make any payments on a proportional basis. Our investigator also thought Ageas should pay Mr W £400 compensation for the trouble and upset it caused him in the way it handled the matter.

Ageas didn't agree and asked for the matter to be reviewed by an ombudsman. It said the awning would need to be bolted onto the van so it wasn't possible to remove easily. And it still considered that the internal changes turned this into a camper van rather than just a van.

The matter was then passed to me to decide.

What I've provisionally 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.

Though this is a commercial policy I think the relevant law in this case is The Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA) as Mr W's van was used for personal use only. CIDRA requires consumers to take reasonable care not to make a misrepresentation when taking out a consumer insurance contract (a policy). The standard of care is that of a reasonable consumer.

And if a consumer fails to do this, the insurer has certain remedies provided the misrepresentation is - what CIDRA describes as - a qualifying misrepresentation. For it to be a qualifying misrepresentation the insurer has to show it would have offered the policy on different terms or not at all if the consumer hadn't made the misrepresentation.

CIDRA sets out a number of considerations for deciding whether the consumer failed to take reasonable care. And the remedy available to the insurer under CIDRA depends on whether the qualifying misrepresentation was deliberate or reckless, or careless.

Ageas thinks Mr W failed to take reasonable care not to make a misrepresentation when he failed to declare a side awning, exterior graphics, interior modifications that made this into a camper van and also a speeding offence.

The question Mr W was asked

Ageas provided a copy of the question Mr W would have been asked, taken from A's website. But Ageas has also said that the policy was purchased over the phone so I don't think the online question is relevant here. Ageas provided a copy of the call between Mr W and A when the policy was incepted. Mr W was asked whether the vehicle had any modifications, and he answered "no". Based on this question, which includes no explanation as to what amounts to a modification, I don't think Mr W had to disclose any of the modifications Ageas has referred to.

The statement of fact document though is clearer and provides more detail as to what a modification is. It includes the following statement:

"Has your vehicle been modified, altered or adapted in any way from the manufacturer's standard specification whether or not performance is altered, or do you intend to alter it later?.. Examples would be changes to the bodywork, changes to suspension or brakes, cosmetic changes such as alloy wheels, changes affecting performance such as engine management system or exhaust changes, changes to the audio equipment. Be aware this is not a full list..."

Mr W answered "no".

The graphics

I think the above statement is clear in what Mr W is required to disclose in terms of modifications. I think the reference to cosmetic changes should have alerted Mr W to the fact that the stickers/graphics ought to have been disclosed. I have seen photographs of the van and I think they are fairly prominent though I agree that they don't cover the majority of the van like Ageas said. Also, Mr W has said that they were added by the previous owner which would indicate that he was aware that the van didn't originally have graphics. Nevertheless, Ageas said the policy would have still been provided. It hasn't shown that it would have been offered on different terms so I take it that even if the graphics had been disclosed, this wouldn't have made a difference. Even if Ageas provides evidence now to show it would have made a difference, I wouldn't be able to consider it as it has had many opportunities to provide this so far and hasn't.

The awning and internal changes

I have also considered whether Mr W should have declared the awning and any internal changes. Mr W said that they were both temporary- he said the awning was attached to the roof rack and the internal changes consisted of a removable shelf. Ageas said it spoke to its engineer who said that an awning would have had to be bolted/screwed on somewhere. The engineer also said that this was a basic camper van without a cooker. I have also considered the engineer's report when the van was originally inspected, which said that the van had a number of modifications including internal modifications with wood panelling and a partition panel. But the engineer doesn't comment on whether these were permanent changes or whether they were detachable, as Mr W has said.

I have also looked at the photographs provided by Ageas and I haven't been able to see that the awning had been bolted onto the van or that there were permanent internal alterations. Ageas referred to wooden panelling but as far as I understand this is a factory option for this

van. From the photographs I can see what could be a large shelf, though this isn't very clear, but I couldn't see that this could be converted into a bed, as Ageas suggested. And Mr W said this was removeable and stored in his shed which Ageas hasn't provided evidence to counter.

On balance and in these very specific circumstances, I am not satisfied that Mr W should have declared the awning or the internal changes. This is because, on balance, they were temporary and he was able to remove them from the van and, as far as I am aware, Ageas has not been able to show otherwise. As I said above, I couldn't see any evidence of the awning being bolted onto the roof of the van and I also haven't seen any evidence of a bed in the van, which is what Ageas said made it into a campervan. So I would consider them to be more like accessories rather than modifications.

The speeding offence

The statement of fact also includes the following statement which Mr W again answered "no" to:

"Have you or any person who may drive... been convicted of any motoring offence, had driving licence endorsements, including Fixed Penalty offences, or have been disqualified from driving within the last five years..."

I think the statement of fact document is clear and based on what is in this document I think Mr W ought to have declared the speeding conviction bearing in mind the offence took place in May 2023. I note that during his call with A, Mr W was asked if he had any claims or convictions in the previous 12 months and based on that question he answered "no" which was correct. Nevertheless, upon receipt of the statement of fact I think he should have contacted Ageas to inform it of the May 2023 conviction as this was within 5 years.

So, based on the above I think Mr W ought to have declared the graphics and the speeding offence.

Ageas has said though the graphics and the speeding conviction did not affect the validity of the policy, it expected Mr W to declare them. And the speeding conviction would have resulted in an additional premium being charged. As I said above, it hasn't said whether declaring the graphics would have changed anything so I take it that it wouldn't have.

This means I'm satisfied Mr W's misrepresentation was a qualifying one but only in relation to the speeding offence.

Ageas said it considered the misrepresentation to be careless and I think this is fair and reasonable.

As I'm satisfied Mr W's misrepresentation should be treated as careless, I've looked at the actions Ageas can take in accordance with CIDRA. Ageas has said that if Mr W had declared the speeding offence it would have still sold him the policy but on different terms, by charging an additional premium. It follows that I think the fair and reasonable outcome to the complaint is for Ageas to reinstate the policy and settle Mr W's claim on a proportional basis. It must also remove any record of the avoidance.

I also think Ageas' service was sometimes poor, in particular when it came to initially confirming whether there was a driving under the influence exclusion under the policy. Mr W was given conflicting information over a number of days which he was frustrated by. This is apparent in his telephone conversations with Ageas. I think this is something Ageas ought to have been able to confirm early on, which would have lessened the distress Mr W was already experiencing, especially as this was not long after what was a significant accident. I think Ageas should pay Mr W £200 compensation for this.

I note Mr W said he considers this to be a "non-fault" accident and is concerned about the impact on his no claims discount (NCD). As the driver who caused the accident was not found, this means Ageas wouldn't be able to recover its outlay which means even though Mr W may not have caused the accident, this would still be considered to be a "fault" claim. And this may impact his NCD depending on whether it is protected, if he had other accidents etc.

My provisional decision

For the reasons above, I am considering upholding this complaint and asking Ageas Insurance Limited to settle Mr W's claim on a proportional basis (based on the premium paid compared to what should have been paid) in line with the remaining terms and conditions including the policy excess. It must also reinstate the policy and remove any record of the avoidance from internal and external databases. As it has refunded Mr W's premium it may deduct this amount from any settlement it pays. It must also pay simple interest at a rate of 8% per year on any settlement it pays starting one month from the date the claim was submitted to the date of settlement.

Ageas Insurance Limited should also pay Mr W £200 compensation for the distress and inconvenience it caused him."

Ageas agreed with the recommendations I made but said it wouldn't be able to reinstate the policy as it would have lapsed in May 2025. It proposed to treat this as a voluntary cancellation from the day after the claim.

Our investigator put Ageas's recommendation to Mr W but there was no response. Our investigator also informed Mr W that I was in agreement with the recommendation to treat this as a voluntary cancellation meaning he wouldn't have to declare it in future policies. There were no comments from Mr W by the deadline to respond to the provisional decision. I allowed a few more days but as there were still no comments from Mr W I decided to proceed 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.

Ageas said that it will not be possible to reinstate the policy as it would have lapsed in May 2025. But it offered to treat this as a voluntary cancellation by Mr W, meaning it's not the type of cancellation Mr W has to declare in future. I think this is fair and reasonable as long as the avoidance is also removed and as long as there was a valid policy in place when the claim was made, so that it is covered.

As there have been no further comments from the parties the rest of my findings are the same as the findings I made in my provisional decision and are now the findings of this, my final decision.

My final decision

For the reasons above, I am upholding this complaint and asking Ageas Insurance Limited to settle Mr W's claim on a proportional basis (based on the premium paid compared to what should have been paid had the speeding offence been declared) in line with the remaining terms and conditions including the policy excess. It must remove any record of the avoidance from internal and external databases and treat this as a voluntary cancellation by Mr W. As it has refunded Mr W's premium it may deduct this amount from any settlement it pays. It must also pay simple interest at a rate of 8% per year on any settlement it pays starting one month from the date the claim was submitted to the date of settlement.

Ageas Insurance Limited should also pay Mr W £200 compensation for the distress and inconvenience it caused him

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

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 19 January 2026.

Anastasia Serdari
Ombudsman