

## The complaint

Miss M complains that Ageas Insurance Limited avoided her policy (treated it like it never existed) and refused to pay her claim.

Miss M has been represented by a relative during this complaint. Any reference to Miss M in this decision relates to information provided by both her and her representative.

In addition, any reference to Ageas includes its agents.

## What happened

On 4 June 2023 Miss M took out a policy with Ageas through a price comparison website for the van she was driving. Ten days later the van was involved in an accident and so Miss M made a claim under the policy.

Ageas said that she had answered the question it had asked about ownership of the van incorrectly. It said that she had put that she was the legal owner when this wasn't the case. Miss M said that the van was registered in the name of her ex-partner, but that he had said she could have the van. Ageas said that if it had known she wasn't the legal owner of the van, it wouldn't have offered the insurance policy. It therefore considered this to be a careless qualifying misrepresentation under the Consumer Insurance (Disclosures and Representations) Act 2012 (CIDRA), which entitled it to avoid the policy from the start of the cover. And it said this meant it didn't need to settle Miss M's claim. Ageas also refunded the full policy premium.

Unhappy with this outcome, Miss M complained to Ageas and then brought her complaint to us. Our investigator looked into the matter but didn't think it should be upheld. Our investigator agreed that there had been a qualifying misrepresentation and agreed it had been careless. On that basis our investigator found that Ageas had acted fairly when avoiding the policy, returning the premium and refusing Miss M's claim.

Miss M didn't agree with our investigator. She said that saying she was the legal owner and registered keeper was a genuine mistake. She also said she never received the statement of fact following the sale to check the information which had been entered was correct. As no agreement could be reached the matter was passed to me to decide.

On 17 May 2024 I issued my provisional decision. In it I said the following:

"The relevant law in this case is CIDRA. This because, although the policy is a commercial van insurance policy, Miss M has told us she had the van for personal use. 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 Miss M failed to take reasonable care not to make a misrepresentation when she stated that she was the legal owner and would be the registered keeper of the van. When considering this complaint, I've looked at the questions asked on the website through which the policy was taken out. When asking about ownership the website asked this question:

"Are you (or will you be) the registered keeper and legal owner?"

To answer this question there is the option to select either 'Yes' or 'No'. Ageas has said that Miss M selected 'Yes' when answering this question. Ageas said that as she wasn't the legal owner of the van she should have selected 'No'.

As explained above, in order to decide if a qualifying misrepresentation has taken place I need to decide if the consumer took reasonable care. And when deciding this CIDRA makes it clear one of the considerations is how clear, and how specific, the insurer's questions were.

The question above asked Miss M whether she was or would be the registered keeper and the legal owner of the vehicle she was insuring. In Miss M's testimony she has said that her relationship with her ex-partner had ended a few months earlier and as a result he had said she could have the van. She said he told her he would transfer the V5 (the vehicle logbook) into her name. In the circumstances, I think it was reasonable for Miss M to answer this question 'yes' even though she was not the registered keeper and legal owner at the time she answered it.

From the information I've been given I can't see that there has been any explanation clearly provided on the website in relation to exactly what Ageas intended by the phrase 'will you be'. So, bearing this in mind, as I've already said, I don't think Miss M answered the question incorrectly. In view of this, I do not think she failed to take reasonable care not to make a misrepresentation.

In the circumstances, as there wasn't a qualifying misrepresentation, Ageas was not entitled to avoid Miss M's policy. It must therefore reinstate it from inception, remove any record of the avoidance from its records and any central databases. Ageas must then consider Miss M's claim. I'm aware that Ageas has refunded the premium to Miss M, so she can either choose to return this money to Ageas or Ageas can deduct this amount from any payment it makes on the claim.

Miss M has referred to the impact this matter has had on her. She says this impacted her mental health at a time when she was already struggling due to her relationship breakdown and the thought of having to declare the avoidance and having to pay higher premiums was a worry. So even though not all of the stress Miss M was suffering was as a result of Ageas' actions, I do think that it has exacerbated the situation. I'm therefore of the opinion Ageas should pay £200 to compensate for this."

Ageas responded to say it didn't agree with the outcome. It says that at the time of purchasing the policy, Miss M had no idea what was happening with the vehicle and therefore didn't know if she would ever be the owner. It has provided three call recordings, two with Miss M and another with a relative. It says that the information in these calls shows

that taking over ownership of the van from the ex-partner had not been discussed and that, during these calls, it was advised that he was the owner. So, Ageas says that this contradicts the argument that Miss M believed she would become the owner.

### **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 listened to the three call recordings provided from Ageas. The first one is when Miss M notifies Ageas of the accident. In this call she is specifically asked for the name of the registered keeper of the vehicle and Miss M responds with her ex-partner's name. In the second call with Miss M, she is asked again who the registered keeper is, and she replies that it is her ex-partner, however, when asked who the owner is, she confirms this is her. She states that the plan was that she was going to be buying the van from him. She also explains that the vehicle was being paid for by a finance agreement and the money being used was coming out of a joint account they held together.

From listening to these calls, I think they show there was a clear intention that, prior to the incident occurring, Miss M was going to become the vehicle owner. Ageas has referred to a point in the second call where it believes Miss M says she thinks the van was going to be signed over to her, but that she hadn't discussed that with her ex-partner as yet. Ageas says this shows that there wasn't any plan for her to become the legal owner. However, I'm not persuaded by Ageas's argument here. Having listened to the call, when Miss M states she hadn't discussed this with her partner, this was in response to a question about how exactly she was going to be buying the van from him. I don't think it is unreasonable for these details not to have been discussed, and so I'm not persuaded that Miss M not having a plan for the finances at that point meant that she didn't think she was going to become the owner of the van.

Ageas has also referred to a call with Miss M's relative, where it says there was further confirmation that no agreement was in place to buy the van. During the conversation the relative states that she had been advised before taking out the cover that Miss M may not be able to insure the van as she wasn't the owner. I've considered this matter and Ageas's responses very carefully. I appreciate the point that, when the policy was taken, there may have been awareness that Miss M couldn't take out insurance as she wasn't the legal owner. However, this doesn't take away from the fact that the question asked included if you 'will be' the legal owner. While Miss M wasn't the owner at that point, I'm persuaded that the belief was that she was intending to become that.

I'm aware that in this same call there was some discussion about Miss M paying off the finance now in order to remove the ex-partner. However, at this point Miss M had only just been advised about the voidance of the policy and therefore I believe these comments were made in an attempt to resolve the issue for Miss M at that point in time as opposed to thinking about the question that had been asked when taking out the cover. So, I'm not persuaded to change my outcome based on this call.

Taking everything into account, I'm still of the opinion that the question wasn't answered incorrectly. I'm persuaded that Miss M believed she was going to become the legal owner and registered keeper of the van and therefore I don't think she failed to take reasonable care not to make a misrepresentation.

### **Putting things right**

Ageas needs to do the following:

- Reinstate the policy and backdate to the date of inception (the premium for which can either be repaid by Miss M or deducted from any claims payment).
- Remove any note of the avoidance from its records and any external databases.
- Reconsider the claim.
- Pay Miss M £200 in compensation.

### **My final decision**

For the reasons stated above, I uphold this complaint.

I direct Ageas Insurance Limited to put things right as detailed above in the 'Putting things right' section.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 1 August 2024.

Jenny Giles  
**Ombudsman**