

The complaint

Mr S has complained about the fact that Ageas Insurance Limited are pursuing him for recovery of the amount they paid to a third party to settle a claim against his motor insurance policy.

What happened

Mr S allowed his sister, who I'll refer to as Ms N, to drive his car thinking she was legally insured to drive it under her own car insurance policy. She had an accident in it in which she caused damage to a third party vehicle. The third party claimed against Mr S's policy through a representative. Initially, Ageas refused the claim and directed the representative to Ms N's insurer. But they established Ms N was not insured to drive other cars under her policy. So they settled the third party's claim. They then asked Mr S to reimburse their outlay.

Mr S complained to Ageas. He said they hadn't let him know they were going to settle the claim and he felt they hadn't investigated it properly. Ageas didn't uphold his complaint and maintained they were entitled to recover their outlay from him.

Mr N complained to us and one of our investigators considered his complaint. He said it should be upheld and that Ageas should not pursue Mr S for their outlay. Ageas didn't agree. They provided a letter from a solicitor. They seemed to think this explained why they're entitled to recover their outlay. Our investigator then sent out a second view on the complaint in which he explained why he still thought Ageas shouldn't pursue reimbursement of their outlay. Ageas didn't respond to this, so the investigator passed the complaint to me for 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.

I've read the letter from Ageas's solicitor. This seems to focus more on Ageas's right to recover their outlay from Ms N, as opposed to recovering it from Mr S. It even acknowledges that no right of recovery exists against Mr S as a result of Ageas's Road Traffic Act obligations.

It's clear Ageas settled the third party claim because they knew if they obtained a judgement against Ms N as the driver of Mr S's car, they'd be legally obliged to settle the judgement. So, to avoid the extra costs that could be incurred if the matter went to court, they offered what appears to have been a reasonable settlement to the third party's representatives.

However, despite trying to contact Mr S by phone and writing to him about settling the third party's claim, Ageas actually never told him they were going to recover what they paid from him. And they didn't even ask him to sign a consent and indemnity form, which would have given them the right to takeover and settle the third party's claim on his behalf and recover their outlay from him.

Ageas have suggested they have a right to recover damages, ie their outlay from Mr S, for breach of contract, as he let Ms N drive his car and this went against the terms of his policy. But I've checked Mr S's policy and I can't see he has breached any of its conditions in letting Ms N drive his car thinking she was insured to do so under her own policy.

In the circumstances, Ageas never actually told Mr S they were intending to recover from him or asked for his permission to take over and settle the third party claim. And because they haven't persuaded me they have a legal right to do so, I think the fair and reasonable outcome to this complaint is for me to direct Ageas not to recover their outlay from Mr S. I should however make it clear that if Ageas had made it clear to Mr S that they intended to settle the third party claim and asked for his permission to do so, I may have taken a different view.

It may be that Ageas has a legal right to recover their outlay from Ms N, but I have not considered this issue.

Putting things right

For the reasons set out above, I don't consider Ageas should continue their attempts to recover their outlay of what they paid on the claim against Mr S's policy from Mr S.

My final decision

For the reasons set out above, my final decision is that I uphold Mr S's complaint and direct Ageas Insurance Limited not to recover their outlay on the abovementioned claim from him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 2 August 2023.

Robert Short
Ombudsman