

The complaint

Mr H complains about Ageas Insurance Limited (“AIL”) and their decision to decline the claim he made on his motor insurance policy.

What happened

On 22 June 2023, Mr H purchased a short-term insurance policy, due to run for 24 hours, from a broker, who I’ll refer to as “T”. The policy itself was underwritten by AIL.

Unfortunately, on 23 June, Mr H was involved in a road traffic accident which deemed his car a total loss. So, he contacted AIL to make a claim. AIL undertook investigations to validate Mr H’s claim, which included asking for his driving license number. Mr H willingly provided this information, but a check on his driving license showed he had more than six points at the time of the accident. And AIL didn’t think these points had been disclosed at the policy inception. So, they declined Mr H’s claim and voided his policy, keeping the premiums he paid. Mr H was unhappy about this, so he raised a complaint.

Mr H didn’t think AIL’s decision was a fair one. He explained he hadn’t been asked during the policy sale process to provide any details of the points he held on his license. So, he didn’t think it was fair to rely on this as a reason to decline his claim, and he wanted them to overturn the claim decision and accept it.

Ageas responded to the complaint via T, and they didn’t uphold it. They thought it was made reasonably clear to Mr H through the claims process that to take out the policy, he must have no more than six points on his license. And as he’d continued to accept the policy on this basis knowing this information to be false, they felt they had acted within industry rules and guidelines when declining the claim. So, they didn’t think they needed to do anything more. Mr H didn’t agree and so, he referred his complaint to our service for a decision.

Our investigator looked into the complaint and didn’t uphold it. They explained they had considered The Consumer Insurance (Disclosure and Representations) Act 2012 (“CIDRA”) when considering the complaint, as this sets out the actions an insurer can take when they feel a customer has misrepresented at the inception of a policy. And having done so, they thought AIL had acted fairly when deeming Mr H’s misrepresentation to be deliberate or reckless. So, they thought the actions AIL had taken, which included declining the claim, were fair and in line with the terms of CIDRA. Because of this, they didn’t think AIL needed to do anything more.

Mr H didn’t agree. He maintained his stance that he hadn’t been asked to provide details of the points he held during the policy sale process, on T’s website. And he explained he hadn’t seen the wording referred to in the response to his complaint, believing there may have been a technical issue on T’s side. And he explained both his partner and his mother, present at the time he took out the policy, were willing to provide witness statements to support his testimony.

Our investigator considered Mr H’s comments, but they explained both Mr H’s mother and partner couldn’t be seen as independent and so, they didn’t think witness statements from

them would change their opinion. So, their outcome remained the same, providing a further view to address some errors in the original outcome they sent. Mr H continued to disagree and so, the complaint has been passed to me for a 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.

Having done so, I'm not upholding the complaint for broadly the same reasons as the investigator. I've focused my comments on what I think is relevant. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

First, I want to recognise the impact this complaint has had on Mr H. I recognise his car was deemed a total loss due to the accident damage. So, I appreciate he was ultimately left without a car and, when AIL decided to decline his claim, any form of payment to replace it. So, I recognise the distress and inconvenience this would've caused him. And as AIL declined the claim stating Mr H didn't provide information at the inception of the policy, which Mr H doesn't feel he was asked for, I can understand why he'd feel unfairly treated and want AIL to reverse their decision.

But for me to say AIL should do something differently, such as reverse their claim decision and accept it, I first need to be satisfied they've done something wrong. In this situation, AIL have deemed Mr H to have reckless or deliberately misrepresented the information he provided at the policy inception. So, for me to say this determination and the actions took AIL because of this were wrong, or unfair, I've considered this against the rules set out in CIDRA.

Under the rules of CIDRA, I first need to consider whether a misrepresentation has taken place. In this situation, Mr H hasn't disputed he had more than six points on his licence at the time the policy was inception. And, that the policy he took out was based on him having less than six. So, I do think the information contained within his policy was incorrect. But he's stated he wasn't asked to confirm how many points he had. And for me to say a misrepresentation has taken place, I first need to be satisfied that Mr H was asked for certain information clearly, and fairly.

I've seen screenshots of the information Mr H would've seen, as he purchased the policy through T's website. And from these screenshots, I think it's made reasonably clear to Mr H that he *"must have no more than 6 points on your driving license in the last 3 years and have no prosecutions, or police enquiries pending"*. And I've seen that underneath this determination, it states that by clicking the button *"agree and continue"* that Mr H was confirming *"that you have read, can meet, and have understood the terms and conditions set by Ageas as laid out in the full declaration"*. And above this were links to Mr H's contract of insurance, policy wording and his insurance product information. And I've seen in this contract of insurance, it states Mr H's declaration that *"I have no more than 6 penalty points on my driving license, in the last 3 years and have no prosecution of policy enquiry pending"*.

So, I think AIL made it reasonably clear that there was an expectation of Mr H to ensure that he had no more than 6 points on his license. And, that this should've been declared if he had. And it's not disputed that he didn't. So, in this situation, I'm satisfied there was a misrepresentation. And I'm satisfied that it would be deemed to be a *"qualifying misrepresentation"* under the terms of CIDRA, as from the evidence I've seen, I think Mr H failed to take reasonable care to ensure he provided all the relevant, and necessary, information correctly. And the onus is on the customer, in this case Mr H, to ensure the

information is correct.

I recognise Mr H will dispute this. And I want to reassure Mr H I've considered his comments about the information he saw on T's website at the time of purchase. While I understand why he wants our service to consider the witness statements of his mother and partner, I don't think either of these would be deemed to be independent or impartial, as they would have a vested interest in Mr H receiving the outcome he was hoping for. So, I'm not able to place weight on these statements on this occasion.

And I want to make it clear I wasn't present at the time Mr H purchased the policy. So, I can't say for certain what he did, or didn't, see. So, I've had to make a decision based on the balance of probabilities and what I think is most likely to have happened. AIL have shown a screenshot of the policy purchase process, and this suggests Mr H had to see certain information before selecting boxes to take him to other pages. I've seen nothing, other than Mr H's testimony, that suggests this process deviated away from what AIL has explained. So, on the balance of probability, I think it's most likely Mr H was presented with the information AIL says he should have. If Mr H is unhappy with the sales process, this would be something he'd need to raise with T directly, as they were the broker and the party responsible for the sale, not AIL.

I've then thought about what AIL would've done, had Mr H provided the correct information. And I've seen AIL have confirmed that they don't offer cover to any customer with more than six points on their license. And I think this follows all their policy material, which makes it clear they need a customer to confirm they have no more than six points. So, I'm satisfied that Mr H's misrepresentation made a material difference on this occasion.

So, I've then turned to the actions AIL are able to take, where a qualifying misrepresentation has been made, that materially impacted AIL's decision to offer the policy. And this differs slightly on whether an insurer feels a customer has acted carelessly, or recklessly or deliberately.

Where an insurer feels the misrepresentation was deliberate or reckless, they are entitled to avoid the policy, refuse all claims, and not return the premiums. And this is what AIL have done here. So, I've thought about whether this classification is fair. And I think it was.

This is because I think it's made reasonably clear on separate occasions, within separate documents, that Mr H must have less than six points. And I think Mr H was reasonably aware at the time that he had more than this, with him having more than double this amount at the policy inception. And due to the number of points Mr H held, I think he would've, or should've, been reasonably aware this would likely be information any insurer would want to know, considering the number of points he held was likely to have impacted his ability to obtain insurance elsewhere.

So, I think AIL were fair to class Mr H's misrepresentation as reckless or deliberate. And because of this, I can't say they did anything wrong, or acted unfairly, when taking the actions they did. And because of this, I don't think they need to do anything more on this occasion.

My final decision

For the reasons outlined above, I don't uphold Mr H's complaint about Ageas Insurance Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 6 December 2023.

Josh Haskey
Ombudsman