

The complaint

Mrs S complains on behalf of her husband, Mr S, that AXA Insurance UK Plc settled his car insurance claim on a full fault basis and that there were delays in settling the claim.

What happened

Mr S had a car insurance policy with AXA. His car was parked on the side of the road when a third party's car parked in front of it.

Overnight the third party's car was set on fire. The fire spread to Mr S's car and caused significant damage.

Mr S called AXA to report the damage and raise a claim. It said that it would pick the car up that day. Several days later the car still hadn't been picked up and so Mr S again contacted AXA. It then arranged for the car's collection.

AXA arranged for an engineer to assess the vehicle, the engineer decided that the car was beyond economical repair. AXA settled the claim with Mr S, paying him £1,950 minus his policy excess. It told Mr S the claim would be registered on a full fault basis until such time that it could recover any costs from a third party.

Mr S complained to AXA as he felt he shouldn't have had to pay the excess, and he didn't agree that the claim should be registered as a fault claim. Mr S also felt there was a delay in settling the claim as the car wasn't picked up for several days and Mr S had to make several phone calls to find out what was happening.

AXA said that Mr S's complaint wasn't allocated to a complaint handler within a timely manner, so it didn't issue a response to the complaint but gave Mr S referral rights to us.

Mr S remained unhappy so brought his complaint to us via Mrs S. I sent AXA and Mr S my provisional decision on 4 May 2020. I explained that I thought AXA failed to investigate the claim properly and there was an avoidable delay. So, I was minded to tell AXA to pay compensation to Mr S and review his claim. I've copied my findings from my provisional decision below.

My provisional findings

In my provisional findings I said;

I'm conscious that Mrs S feels strongly that, as her husband wasn't to blame for the damage, it shouldn't be recorded as a fault claim against him. And so, I think it would have helped Mr S if AXA had clearly explained what they meant by 'fault'.

Insurers often refer to claims as being fault or non-fault. But these terms are really a form of shorthand and could be misleading. A fault claim doesn't mean that the policyholder was

to blame for the accident or claim, just that the insurer hasn't been able to recover its cost for settling the claim.

So, when the damage was caused by an unidentified third party, as the insurer has no-one to recover their costs from, they'll refer to it as being a fault claim. In those circumstances a consumer's no claims bonus (NCB) will most likely be affected by being reduced. Or if it is protected the claim will count against it. And this reflects how insurers record such incidents on a shared database of claims (the Claims and Underwriting Exchange (CUE)). They don't actually record them as fault or non-fault, but as either bonus allowed or disallowed.

Where the insurer has no prospect of recovering its costs it's likely to record this on CUE as bonus disallowed and either reduce the policy holders NCB from that point or count it against their protected NCB (this won't affect the level of bonus if it is the first bonus disallowed claim they've had).

It's not unusual for an insurer to record a claim as NCB disallowed until such time as they have recovered their costs.

In cases of this kind it's often unlikely that the costs will be recovered from a third party. That's because the costs would need to be recovered from the arsonist. So, they would need to be identified and proven to have caused the fire before they were pursued for the costs.

But with that in mind, however unlikely it may be, I would expect AXA to make some attempts to recover their costs by contacting the police or TPI to enquire if a culprit has been identified. I say this because I think it is good industry practice and the rules covering insurance companies say AXA must treat its customers fairly.

However in this case, I don't think AXA did treat Mr S fairly or act in accordance with good industry practice.

When AXA was asked if it had obtained the police report, it said it wasn't provided with any police crime reference numbers or any information that the police were involved. However, in the first notification of loss call AXA noted there was an 'on-going police investigation'. So, I think it was aware that the police were involved. Furthermore, it wouldn't be unreasonable to assume that there would be reports from either the police or fire brigade considering the allegation was that the fire was a result of arson. But I can't see that either of these parties were contacted or reports obtained.

AXA has also said that it attempted to contact the third party insurer (TPI), but hasn't received anything from them. AXA has indicated this was because Mr S didn't provide full details of the third party involved. Although there is expectation for the customer to provide accurate information to AXA to aid its investigation, I haven't seen sufficient evidence to show that AXA told Mr S what further information was required. Had it done so, I think that Mr S would have provided all the information that he had, as it was in his interests to do so. Plus, if AXA had the registration number of the third party vehicle they should have been able to trace the owner using this.

Information from the police, fire brigade or TPI may have identified, according to professional opinion what caused the fire. Although it's unlikely, this information may have assisted AXA in trying to recover the costs.

So I think AXA should have done a lot more to try and recover its costs. And the fact it didn't has clearly caused Mr S some distress and inconvenience.

Mr S was unhappy that the policy excess was deducted from his settlement. However the excess is a condition of the policy that Mr S took out with AXA. It's not uncommon for the excess to be deducted from any settlement payment, whether Mr S thinks he was at fault or not, and I don't think AXA acted unfairly in doing so.

Mrs S was also unhappy with the amount of time it took to settle the claim. AXA told Mr S that the car would be collected on the day of the claim. When the car was still there two days later he called AXA to chase this up. Mr S called again on the third day and AXA then arranged for an agent to pick the car up. I think this delay was avoidable and could have impacted on the length of the claim, as the damage report couldn't be completed until the car had been collected and inspected. So, I think AXA should compensate Mr S for this avoidable delay and added inconvenience.

Mr S made several phone calls to chase AXA during the claim. But I don't think there were any further avoidable delays. AXA were waiting on an examination of the car and reports to be written before it could update Mr S. Once it had the information, AXA attempted to contact Mr S to arrange payment. This was about two and a half weeks after the claim was made. I can appreciate during this time Mr S was inconvenienced by not having a car which led to him incurring costs. However, there is always going to be a level of inconvenience in claims of this nature and Mr S policy didn't cover any additional expenses. AXA updated Mr S at the relevant points in the claim and so, I don't think they acted unfairly here.

So overall, whilst I agree that if AXA were unable to recover its costs, the claim has to be recorded as 'fault' or bonus disallowed. I don't think AXA acted in the interest of its customer by not conducting a reasonable investigation to try to recover its costs first. Basic enquiries with the police, fire brigade or TPI may have led to identifying a third party to recover the costs from. AXA also delayed the claim by not picking up the car for three days. For these reasons, I'm minded to tell AXA to pay Mr S £200 for the distress and inconvenience it caused. And I also direct AXA to make the enquiries it should have made during the investigation into the claim.

The response to my provisional decision

Both Mr S and AXA accepted my provisional decision, so the case has been passed back to me to reach a final decision.

What I've decided – and why

I've re-considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I've also considered again my provisional findings.

I was pleased to see that both sides accepted my provisional decision. That means I see no reason to depart from the findings I've already reached in this case. So, my decision remains the same.

My final decision

For the reasons I've given in my provisional decision, my final decision is that I direct AXA Insurance UK PLC to;

- Pay Mr S £200 for the distress and inconvenience caused by its avoidable delay and failure to investigate the claim properly.
- Review the claim and make reasonable enquiries to try to recover the costs.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 10 July 2020.

Timothy Wilkes
Ombudsman