

## **The complaint**

Mr L was unhappy with AXA Insurance UK Plc 's handling of his claim under his policy.

## **What happened**

Mr L's car was vandalised, and he claimed under his policy with AXA for its repair.

He was unhappy that AXA charged him his policy excess of £550 and recorded the claim as a fault against him on the motor insurance database. He said that fault claim reduced his no claims discount (NCD) and made his premiums increase. He felt this was unfair when it wasn't his fault. He wanted AXA to reimburse his excess, reinstate his NCD, remove the fault claim from the motor insurance database, and reimburse the increased premium he'd had to pay due to the fault claim against him.

The investigator didn't recommend that the complaint should be upheld. She thought that AXA hadn't acted unfairly. Mr L didn't agree and so I've been asked to decide.

## **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.

AXA didn't dispute that Mr L's car's damage was caused by vandalism by someone unknown and who hadn't been caught, despite police involvement. But AXA explained that because the person responsible for the vandalism couldn't be found, there was no one for them to recover their claim costs from. In that situation, a claim would be recorded as fault and this was normal industry practice. As the investigator explained to Mr L, this is indeed industry wide practice when an insurer can't recover, from the person responsible, the costs which they pay out on a claim. So I don't think that AXA have been wrong to do that. Though I can see how that must be frustrating for Mr L, particularly when he reported it to the police and helped them with their investigation.

He also said that if he'd known at the start what would happen he wouldn't have made a claim but would have paid for the damage repair himself as it was under £1,000. However I notice that AXA's costs also include car hire of almost £800 and recovery and other costs of over £250, so I'm not persuaded that he would have acted differently even if he'd understood at outset the consequences of AXA not being able to recover these costs. And I don't think AXA were under any obligation to explain it to him then.

Mr L felt that his policy was comprehensive and didn't say that vandalism wasn't covered, which meant that it should be covered. But Mr L's policy did cover him for vandalism, and AXA did deal with his claim. They did repair his car and provide him with a hire car. His complaints have only arisen because there was no one else for AXA to recover their costs from.

His policy says on page 5 that excess is "The amount you must pay towards any claim even if the incident is not your fault." Again this is normal practice. Every policyholder has to pay

their own excess on any claim, regardless of who is at fault. But if there is a third party responsible then they may be able to claim it back from that person. The problem is that there isn't an identified third party responsible in Mr L's case.

Mr L also pointed to policy wording which he said showed that he didn't have to pay his excess or lose any NCD if he weren't to blame. But I've checked his policy wording and that only applies where the damage is caused by an uninsured driver in an accident, and the policyholder is was not at fault and can give AXA the make model and registration number of the other car involved. This is because if there's an uninsured driver of an identifiable car, AXA may be able to reclaim their costs from an organisation set up to compensate in situations of uninsured driving. But that isn't the case here, where Mr L's car was damaged by someone unknown and there's no identifiable person, car, insurer, or other body for AXA to claim against.

Mr L says in the past he had a vandalism claim and his then insurer didn't treat him this way. And that he has since taken out insurance with a new insurer which covers vandalism and has seen online that other insurers say their policyholder won't be held at fault for vandalism.

But I can't comment on what other policies might say. Mr L is insured with AXA and is subject to their policy terms . And I can only repeat that it's normal industry practice for a fault claim to be recorded against the policyholder in Mr L's situation. Similarly, it's normal for an insurer to reduce an NCD on a fault claim, and Mr L's policy schedule made that clear.

I can see that Mr L is upset that his car was damaged through no fault of his own, yet he feels that AXA are treating him as if he had hit someone else's car. I do see that must be distressing. But I don't think AXA have acted unfairly and they are required to record claims information as they have. For that reason I don't require them to do anything else.

### **My final decision**

For the reasons I've given above it's my final decision that I don't uphold this complaint..

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 22 August 2022.



Rosslyn Scott  
**Ombudsman**