

## The complaint

Miss H has complained about her car insurer AXA Insurance UK Plc in relation to repairs it undertook on her car after an accident.

## What happened

Miss H had an accident and AXA repaired her car. But the repairs weren't without incident and the car had to go back on more than one occasion. Finally AXA had an independent engineer (IE) assess the car in relation to eight reported fault issues (a ninth point was made about missing information which was later resolved). AXA wasn't convinced it was liable for all of the issues, but did pay £250 compensation. Miss H complained to us.

Our Investigator felt AXA needed to do more in respect of seven of the eight fault issues. He said they had most likely been caused during the accident or repairs, so AXA should pay for any estimate for repair presented by Miss H. He also said AXA should pay a further £250 compensation. AXA and Miss H agreed.

Subsequently AXA paid Miss H the recommended additional compensation and Miss H sent AXA estimates for repair. AXA accepted that it had caused further delays to this point and offered another £500 compensation. Miss H accepted that, and was pleased the repairs would now move forwards.

However, AXA decided to vet the estimates, rather than just pay them as it had previously agreed. AXA then wasn't able to speak to Miss H's garage. The parties, having reached a further impasse, referred the complaint back to the Financial Ombudsman.

AXA told our Investigator that it couldn't maintain the agreement that had been reached earlier in the complaint process. AXA said it felt it wasn't liable for all seven issues identified by the Investigator. And whilst its engineer had said the cost of £273.60 for alignment work could be agreed, it was felt that the estimate from another garage (totalling £6,126.72 inc. VAT) included work likely unrelated to the incident and/or previous poor repairs. Miss H said she couldn't believe the issues were still unresolved. The complaint was passed to me for an ombudsman's consideration.

I felt AXA did need to do more regarding repairs, and pay more compensation as well additional sums for the diagnostic cost Miss H had incurred. My provisional findings were:

*"There were eight faults considered by the IE, of those numbers 4, 5 and 7 did not require further investigation or were not diagnosed further and do not feature as repair items on the manufacturer invoice in question. So I won't comment on these issues further.*

*Number 2 on the IE report was in respect of alignment. Repairs of this were featured in an estimate Miss H obtained totalling £273.60 (inc. VAT) and AXA said it would pay this. However, it hasn't to date been paid. So I'm going to require AXA to pay it plus interest\* from 9 July 2021, the date of the estimate, until settlement is made.*

*I will now concentrate on items 1, 3, 6 and 8 of the IE report for which the manufacturer garage has estimated for repair, totalling £6,126.72 inc. VAT (£5,105.60 exc. VAT). And which AXA has refuted liability for. I'd add at this point that the work included in the manufacturer's estimate does, I think, represent what the manufacturer believes is needed to fix 1, 3 6 and 8 listed on the IE report. And AXA's objections to being liable for these items stem from its belief that they are no related to either the accident or its repair. Whether or not I agree with that (in whole or in part), I have to say I am disappointed by this response from AXA at this stage. AXA agreed to our Investigator's view which said AXA must pay for the repair needed to fix these faults. And Miss H pursued the matter accordingly by obtaining an estimate and submitting it for payment. I find AXA misled Miss H by agreeing to the view and then raising issues again – the same issues that have always existed for it – that the faults in question were not related to the repairs or the accident. I can understand that Miss H became frustrated when AXA began questioning the estimate. I know AXA has paid some compensation for delay in the claim progressing but I don't think that takes into account the frustration Miss H has been caused which I've spoken of here. For that I think AXA should pay a further £500 compensation.*

*Miss H may think that AXA having agreed to our view means it is bound to stick to that; that instead of being awarded £500 compensation for the frustration caused by being misled, they should be awarded the cost of the whole repair estimate. But I can't fairly and reasonably require that. That would equate to a punitive award. Rather AXA has raised concerns about settling for the repair estimate so I must consider them.*

*There are three items on the repair estimate which I don't think AXA has any liability for at all. The first two of those are linked and total £2,929.02 exc. VAT – throttle body and inlet manifolds. These are related to fault 6 on the IE report; the car going into limp mode. It seems the car responds to an air intake issue by going into limp mode and the intake issue is caused by cracked manifolds, which in turn may be causing a fault with/to show on the throttle body. AXA's engineer's view is that this is likely unrelated to the repair or accident. Neither the IE or the manufacturer have linked this issue to the repair or accident. Although I bear in mind that when the manufacturer was asked to complete a diagnostic (before completing the repair estimate), Miss H had not been told to ask the manufacturer to establish the cause of the issue which, in turn was causing the limp mode problem.*

*However, I do think AXA's engineer has a point. It isn't always the case that just because issues arise after an accident and repair, they can reasonably be determined to have resulted from the accident and/or repair. For me to say they have most likely resulted from the same I'd have to have some kind of logical reasoning which I could apply that gets me from the accident or repair to the fault in question. I haven't seen anything like that here. Here the accident affected mainly the body work and some mechanical parts on the driver's side of the front of the car. The engine wasn't affected. And the manifolds, as far as I'm aware, are situated, towards the middle of the engine, but closer to the cabin than the leading edge of the bonnet. It doesn't seem logical to me that they would have been cracked either in the accident or during the repairs. So with regret for the disappointment I know this will cause Miss H, I'm not going to require AXA to pay for this repair because I can't reasonably say it is liable for it.*

*The third item is the door lock, totalling £323.80 exc. VAT. This is number 3 on the IE report. The IE said he couldn't link this to the accident or repair. AXA's own engineer has explained that the switch that is causing this problem, and is the subject on the repair estimate, is situated deep within the door cavity. I understand this door wasn't affected by the accident and wasn't worked on by the repairing garage. Similar to the above, I can't see any logical reason for the switch to have become faulty due to the accident or repairs. Which means I can't fairly and reasonably make AXA pay the cost of its repair.*

*I see the final two items on the repair estimate differently though. They are the suspension arm and wheel hubs/bearings. They total £991.08 and £762.70 both exc. VAT, plus £99.00 (which includes VAT) for wheel alignment. These reflect numbers 1 and 8 on the IE report. Both numbers 1 and 8 relate to an issue on the driver's side, but the estimate looks to repair these items on both sides of the car. I appreciate that some items on a car should be repaired in tandem. But AXA's engineer says that isn't necessary here. I think the manufacturer might well have quoted to repair both if there were generally signs of wear on the side that wasn't damaged and repaired. And I bear in mind the age of the car and that it has been used between the date of AXA's initial repairs and the estimate. But AXA isn't liable for repairs necessary due to general wear. And in the absence of any general recommendation from an expert for both to be reinstated together, I can't reasonably require AXA to cover the full estimated cost for these items. I do though think it should be paying half of the suspension arm and hub/bearing cost, plus the full £99.00 for wheel alignment. I think the wheel alignment would likely be needed even if only one wheel and one side of the suspension is worked on.*

*If I see evidence that makes me think that both sides should be done in tandem though – because one can't be done without the other (rather than just it being convenient to do the other, already worn one, at the same time), then I might revise my view on this. But at the moment I'm only persuaded half is due.*

*Now AXA, I expect, will be reading this and wondering why I think half is due. Its position is that whilst the driver's side was squeaking and it did work on the driver's side, there hasn't been anything affirmative to link the squeak to the repair or to poor work by its garage. AXA thinks more investigation into this issue is, and always was, required. But I think the time for investigations has passed. Unlike the other issues above, I think there is a logical chain here making it most likely that AXA is reasonably liable for the cost of this repair. That is – the car was damaged on that side, that area of the car was worked on, that specific item was worked on, there was no squeak before, there is a squeak now and there were other poor repairs completed to the car. That's logic enough for me to be satisfied the fault this repair will resolve is most likely linked to the accident and/or repairs. If AXA had wanted to show this was not linked to its work, it could have looked to investigate that further long before now. But it didn't. So I'm minded to make it pay Miss H £876.89, plus VAT, plus £99.00 (which includes VAT), plus interest\*. The £876.89 is half of the total repair cost (exc. VAT) for the suspension arm and wheel hubs/bearings. I think that is fair.*

*AXA will also likely wonder why I am awarding VAT and interest. I think this has gone on for too long for me to fairly be able to say Miss H should have to come back to AXA again once repairs are done and VAT is due. I think Miss H is likely to get the work done and incur VAT in doing so. And I don't think either party should have the inconvenience of needing to view this again after my final decision and settlement of my awards have been made. And whilst Miss H may not yet have incurred the cost for repairs, the cost for repairs is likely to have increased since the estimates were completed. I think adding interest is a fair way of dealing with that likely extra cost whilst again avoiding the parties being involved further after my decision and AXA's settlement of my awards. That is of course, if my final decision remains the same and Miss H accepts it within the deadline given, at which point AXA is bound by my findings and award.*

*The final thing for me to comment on takes the parties back to the original diagnostic completed by the manufacturer garage. AXA accepted it misled Miss H about this too. She was given to understand by AXA that it would pay for the whole diagnostic cost. That was £489.60. But AXA said the garage had diagnosed things that weren't listed for concern by the IE. So AXA only paid Miss H £388.80 – which, in my view, took it too long (likely until late March/early April 2021) for it to agree and pay. This left Miss H £100.80 out of pocket. Miss H accepted the settlement on an interim basis but has remained unhappy about it*

*since. I think AXA must fairly pay her the outstanding amount, plus interest\*. And interest\* on the initial, but delayed amount too. In each case interest will be from 18 January 2021 (the date of the invoice), on each settlement amount and until settlement of each sum, was/is paid. And interest is awarded in this case to reflect the period for which Miss H has been out of pocket for these sums.*

*I think AXA reasonably has to pay the outstanding sum on the diagnostic cost because it wasn't clear with Miss H before she incurred the cost; about the basis for the diagnostic and what it would pay. So, in this case, AXA's misleading information directly caused Miss H to incur this cost which she otherwise would have avoided. So AXA reasonably has to make her whole in respect of that financial loss."*

AXA said it would accept my provisional decision. Miss H said she was disappointed by it.

Miss H said it seems I think she is not being truthful about events. She said the crash caused a shock to the car which affected many items. And the area directly impacted by the crash contained a lot of wiring, so she suspects this was all affected. She noted that the IE accepted the door did not lock properly. Miss H said she acted as directed in getting a diagnostic done on the car. She said whilst this is a complex situation and there may not be much evidence to support her, she expects to receive what is right.

### **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 appreciate that Miss H believes she is entitled to more from AXA than I have found it is liable for. And that the car must have suffered more in the crash and during repairs than I have accepted. But, as I explained provisionally, I have to, at the very least, have some logical reasoning on which to base a finding against an insurer. It is not that I don't believe Miss H when she says that she had no problems with her car before, but that she does now. It is rather a case of what I can find AXA is most likely responsible for. Because, as I've said, faults arising after a crash and repair are not necessarily caused by that crash and repair.

I appreciate that Miss H thinks the manifolds may have suffered due to the shock of the accident. But I'm not persuaded that it's logical or most likely that they did. Not given they are an isolated part within the engine and nothing else around them suffered. And I've not seen any expert evidence which suggests that is most likely what happened either.

I understand the engineer saw the door wouldn't lock. But the issue is could that be traced back to the crash or repair. Again, I can't see any logical reason for that. Not even taking into account Miss H's view that the shock may have caused problems in and around the car. And as I understand it, it is the switch within the door that is causing this problem – I've not seen anything to suggest this is an electrical problem which might have been caused by faults with the wiring located in the area of the impact and repair.

I think Miss H has acted reasonably throughout to try and resolve this, following advice from AXA in respect of things like getting the diagnostic work done. And, as I've said I think AXA has misled Miss H at times. Consequently I'm requiring it pay the remainder of the diagnostic fee, interest on the whole sum and pay a further £500 compensation. I think that is fair and reasonable in the circumstances.

With regret for any disappointment I realise this will cause Miss H, I'm not minded to change my provisional findings. They, along with my further comments here, are the findings of this my final decision.

### **Putting things right**

I require AXA to pay Miss H:

- £273.60 (which includes VAT) for alignment work, plus interest\* from 9 July 2021 until settlement is made.
- £500 for frustration caused by it misleading her.
- £99.00 (which includes VAT) for wheel alignment, plus interest\* from 5 August 2021 until settlement is made.
- £876.89 plus VAT, for half the cost of suspension arm and hub/bearing repairs, plus interest\* from 5 August 2021 until settlement is made.
- £100.80 (which includes VAT), plus interest\* from 18 January 2021 until settlement is made.
- An amount equivalent to interest\* on the sum of £388.80 applied from 18 January 2021 until payment of this sum was made.

\*Interest is at a rate of 8% simple per year and paid on the amounts specified and from/to the dates stated. HM Revenue & Customs requires AXA to take off tax from this interest. If asked, it must give Miss H a certificate showing how much tax it's taken off.

### **My final decision**

I uphold this complaint. I require AXA Insurance UK Plc to provide the redress set out above at "Putting things right".

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 16 September 2022.

Fiona Robinson  
**Ombudsman**