

The complaint

Mr A complains about the way AXA Insurance UK Plc handled a claim he made on his car insurance policy.

What happened

In early 2020, Mr A notified AXA of an incident he'd been involved in whilst driving his car. He said he hadn't been at fault and didn't need to make a claim for damage to his car. Mr A says he wasn't given any further updates on the claim by AXA.

In 2023, Mr A took out insurance with a different provider. It said Mr A had a fault claim on his record. He found out AXA had recorded the incident as a fault claim.

Mr A complained to AXA, he said he hadn't been told of this or given the opportunity to dispute liability.

AXA didn't think it had made an error in recording the claim as a fault one. But it did accept its communication had been poor and could understand the confusion it had caused. AXA offered £200 compensation to reflect the distress and inconvenience caused.

Mr A didn't accept that and brought a complaint to this service. He said realising the claim had been recorded as a fault claim, and that he hadn't declared it, caused a significant impact on his mental health. He felt his policies over the last three years were invalid and that AXA had put himself and other road users at risk by not telling him how the claim had been recorded. He said his premium had now increased as a result which had impacted him financially.

Our Investigator thought AXA had settled the claim fairly. She said Mr A's policy allowed AXA to settle claims as it decides, even if he doesn't agree. Whilst she noted AXA hadn't communicated properly about how it had recorded the claim, she thought £200 was fair compensation for it.

Mr A asked for an ombudsman to consider the complaint, so the matter has come to me 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.

This service doesn't decide who's at fault for an incident. That's the role of the courts. Instead, we look at whether the insurer acted in line with the policy terms and made a fair and reasonable decision. Mr A's policy terms allow AXA to defend or settle any claim on his behalf. That means it might make a decision he disagrees with, but the policy allows it to do so. I can consider if its decision to settle the claim was reasonable based on the information it had.

When Mr A filled out his claim form, he said he was pulling out from a parked position on a road, he'd checked his mirror before starting his manoeuvre but then a car came speeding up the road and collided with his car. He said they agreed at the scene it was 50/50 as to who was at fault.

AXA says because Mr A was pulling out from a parked position and collided with the middle part of the third party's vehicle, it said it was likely Mr A would be held at fault if the matter went to court. It noted Mr A had said the third party was speeding but it said because speed was hard to prove, it still felt it likely it wouldn't be able to defend the claim in court.

Having considered everything, I don't think that it was unreasonable for AXA to settle the claim as a fault claim. Mr A says AXA didn't give him an opportunity to defend himself, but in his claim form it says there was no witnesses. So there was no third party to give evidence on the cause of the collision. And AXA said he's making a manoeuvre from a parked position, he has to give way. So I think AXA's been reasonable in the decision it took.

Mr A has said he thinks the third party was involved in another accident shortly after the incident with him. So he's concerned that this damage – which he didn't cause – has been added to the claim. Having reviewed the report from the time, I haven't seen anything to suggest AXA paid for damage that was inconsistent with the collision with Mr A's car. So I think it's settled the claim fairly.

However, even though I consider AXA declined the claim fairly, it should have communicated its decision to Mr A at the time. It hasn't provided a reason as to why it didn't. But it accepts that it should have done and has offered £200 for the distress and inconvenience caused in not doing so.

Mr A says finding out he had an undeclared fault claim caused him considerable distress, as he worried that he'd essentially been driving with an invalid policy for three years, putting himself and other road users at risk in the event he'd needed to make a claim. He was also very worried about what his new insurer would do on finding out about this claim.

I can understand Mr A's concern. He's also shared his mental health conditions with us which means he was impacted more severely than others might be on finding out this information. I've taken all of that into account when deciding on compensation. I've also considered that this service doesn't make awards for things that might have happened – but didn't. Mr A didn't have to make a claim during the three years he hadn't declared this one on his policy. So I'm not going to make AXA increase the award based on what could have happened.

Mr A's also said his new insurer has now increased his premium, causing him financial hardship. Whilst I understand this would have been difficult for Mr A, because I think AXA did fairly decide the claim, I don't think it needs to compensate Mr A for this. AXA has made an offer of £200 to recognise the distress and inconvenience caused by its error in not communicating with him. I think this offer covers the inconvenience of Mr A suddenly realising his premium is going to be more expensive going forward. But ultimately as AXA should have told him how it recorded the claim, his premium would have increased in any event. So whilst AXA should have communicated better, I consider it's made a fair offer to recognise its mistake.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 7 March 2024.

Michelle Henderson
Ombudsman