

## **The complaint**

Mr B says AXA Insurance UK Plc wrongly held him at fault for an accident after he made a claim on his motor insurance policy.

## **What happened**

Mr B told AXA that when the accident happened on 30 July 2023 he had indicated to enter the left-hand lane in front of a bus that was several bus lengths away from his car at the time. He said the bus sped up and hit the passenger-side door and mirror of his car when he was halfway through changing lanes. But AXA decided he was at fault, having reviewed his account and the account and images provided by the other insurer. Mr B had to pay the policy excess when his car's repairs were done - and his no claims discount ('NCD') was affected. He says AXA promised to send him the images, but it didn't do so.

One of our investigators reviewed Mr B's complaint. He thought AXA's decision was reasonable. In his opinion, the images supported its view that the bus had right of way and that Mr B had made a late manoeuvre. Mr B said AXA had acted unfairly by denying him the chance to comment on the images before making its decision. He said the bus driver had ignored his position on the road when making his manoeuvre and that the investigator had implied that she had no responsibility to be aware of a vehicle in front.

After the investigator sent Mr B the images, Mr B said they covered only the few seconds just before the bus hit his car. He said immediately before that, the bus was stationary at a bus stop - or was just moving away from it - and he'd indicated left whilst his car was well ahead. He thought one of the images showed he was partway through his move into the inside lane when the bus was still several lengths to his rear.

As there was no agreement, the complaint was passed to me for review.

## **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.

It isn't our role to say which party was liable for an accident. We only review whether an insurer made a decision that was reasonable, based on the information available to it. In this case, the other insurer said it held Mr B at fault because it thought he'd decided to change lanes at the last minute and had misjudged the timing, entering the path of a bus that was correctly proceeding in its established lane. Had there been no images, AXA would have had to make a decision based on that account of events and Mr B's conflicting account that the bus was several bus lengths behind his car when he made his move into its lane.

AXA thought the bus had right of way - and it concluded that was the case whether Mr B was indicating or not. I think that was reasonable, as a driver wanting to change lanes still has to wait for traffic in that lane to give way. AXA didn't think Mr B could show that the bus was

several bus lengths away. It concluded the images showed it was almost alongside Mr B's car before he moved into its lane. Although Mr B disagrees, I don't think it was unreasonable for AXA to reach that conclusion. Mr B says the word 'Brake' that appears in each of the images shows that the bus driver should have been braking but wasn't doing so. I think that's an assumption on his part. AXA didn't comment on the issue, but I don't think Mr B has shown it undermines the evidence AXA relied on in making its decision.

It seems from AXA's file notes that not sending the images to Mr B was an oversight on its part, as it intended to do so once it had ensured that data protection issues didn't prevent it. I don't think it would have made any difference to the outcome had Mr B been able to comment on the images earlier. He has one view of what they show, and AXA has a different view. Under the policy AXA has the right to decide how to deal with any claim, as long as it does so reasonably, having regard to the available evidence. AXA didn't think it could argue successfully that Mr B wasn't at fault, having reviewed that evidence.

I don't think Mr B has shown that AXA acted unreasonably in making its liability decision, but I can see why he was unhappy with its service in promising to send the images to him, and then omitting to do so. Although that was an error on its part, I don't think the omission is significant enough to merit compensation.

Mr B thinks he shouldn't have had to pay the policy excess, but under the policy that's an expense that must be met on every claim unless the other party accepts liability for an accident, which wasn't the case here. Unfortunately, Mr B's NCD was also affected as a result of the fault claim., in line with the policy's terms and conditions.

I know Mr B will be unhappy with my decision, as he's sure he wasn't at fault. I appreciate that the accident must have been traumatic, and that with 16 years incident-free driving it must also have been upsetting to be held at fault and have his NCD affected. But as I don't think Mr B has been able to show that AXA acted unreasonably, I can't uphold his complaint.

### **My final decision**

My final decision is that I don't uphold this complaint. Under the Financial Ombudsman Service's rules, I'm required to ask Mr B to accept or reject my decision before 22 April 2024.

Susan Ewins  
**Ombudsman**