

The complaint

Mr D complains about how AXA Insurance UK Plc (AXA) has handled a claim on his motor insurance policy.

Mr D's complaint has been brought by a representative. Any references to Mr D include the comments of his representative.

Reference to AXA includes its agents.

What happened

Mr D is alleged to have been involved in a collision with a third-party vehicle in October 2023.

Mr D said he was first aware of the alleged collision when he was contacted by AXA. Mr D advised he wasn't aware of being involved in a collision and provided photographs of his vehicle. Mr D said the photographs showed there was no damage to his vehicle. The photographs were provided to AXA in November 2023.

AXA received from the third-party representatives dashcam footage taken from the front and rear of the third-party vehicle at the time of the alleged collision. Additionally, the third-party representatives provided AXA with an engineer's report which included photographs of the third-party vehicle detailing the damage.

AXA said the dashcam footage showed Mr D's vehicle and vehicle registration number, pass the stationary third-party vehicle. Whilst passing, it says the dashcam footage showed movement suggestive of Mr D's vehicle colliding with the third-party vehicle.

AXA said it decided on the information it had available, that liability would likely attach to Mr D and it therefore dealt with the third-party claim.

Mr D was unhappy with AXA's liability decision and made a complaint. Mr D maintained he hadn't been involved in a collision with the third-party vehicle and his policy premiums had increased.

In response AXA said it was upholding Mr D's complaint in part. AXA said having reviewed and investigated all the evidence, Mr D was at fault. AXA's reasoning was the dashcam footage clearly showed Mr D's vehicle registration number as it was passing by the third-party vehicle at the moment of impact. AXA said this evidence left it with no option other than to acknowledge Mr D was at fault for the accident and thus deal with the third-party claim.

As for the increase in Mr D's policy premiums, AXA said the same may be affected whilst the claim was "open" but once the claim had been settled this would be recorded as a fault claim against him. AXA said the fault claim would impact upon Mr D's insurance premium.

AXA acknowledged the impact the incident had on Mr D. Along with apologising to Mr D it awarded compensation to Mr D of £175. An award of £150 was given for the distress and inconvenience experienced by Mr D and a further £25 as a gesture of goodwill related to a

delay responding to Mr D's complaint.

Dissatisfied, Mr D brought his complaint to this service.

Our Investigator didn't recommend upholding Mr D's complaint. She found AXA had considered the evidence provided and although Mr D disputes the collision and damage, AXA didn't have sufficient evidence to counter the third-party claim. She said AXA had acted reasonably in deciding to settle the third-party's claim and had done so in line with its policy terms and conditions and had sufficiently compensated Mr D.

Mr D disagreed with our Investigator, so it has been passed 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.

Having done so, I don't uphold Mr D's complaint. I understand Mr D will be disappointed by this given his strength of feeling on the matter, but I'll explain why below.

My role isn't to consider who was responsible for the accident. It's to look at whether AXA has carried out a fair investigation, reviewed all the evidence it has available and reached a reasonable decision.

At page 30 of Mr D's policy terms and conditions booklet, AXA is allowed, like other motor insurance policies to; -

"CLAIMS

If you or your car are involved in any type of incident, accident or loss regardless of fault you must...b) Give us full control of the claim...We may take over, defend or settle the claim, or take up any claim in your name..."

The policy term therefore allows AXA to settle the claim on the best terms it felt possible and that it has the final say in how to settle a claim. The term doesn't mean that AXA can do as it pleases when settling a claim. Its decision must be reasonable and based on the facts and evidence.

Fault and Non Fault

I would also like to clarify the meaning of the terms "fault" and "non fault", as these terms have been used by the parties in correspondence.

A "fault" claim is more colloquially used, but the actual terminology is "no claims bonus disallowed". It doesn't mean the policyholder is necessarily to blame for the accident but reflects the fact where a claim has been made and the insurer hasn't recovered its outlay. An insurer will be required to register the claim following the Claims and Underwriting Exchange ("CUE") guidance. When recording the claim, the insurer can select bonus disallowed. This doesn't mean the policyholder was to blame; it simply means the insurer has been unable to recover all its costs in full from another party.

When liaising with customers, rather than use the term bonus disallowed, insurers will often say "fault". Use of this term can make the policyholder think they were the party to blame for the accident, rather than the correct scenario of an insurer being unable to recover all its costs.

Alternatively, a “non fault” claim means “no claims bonus allowed”. This will be where an insurer has been able to recover its costs in full from another party.

When providing my decision, I will use the term bonus disallowed as opposed to fault.

Decision to settle

Mr D feels strongly he wasn’t involved in a collision with the third-party vehicle and says he has no damage to his vehicle. Mr D has provided AXA with three photographs of his vehicle (front, rear and nearside) which he says shows no damage.

As stated above, it’s not for me to decide who was responsible for the accident, but whether AXA has taken Mr D’s comments and all other evidence into consideration when deciding whether to concede liability or not.

AXA say it has reviewed and investigated all the available evidence which includes Mr D’s photographs, the third-party dashcam footage and third-party engineers report.

The file shows AXA when reaching its liability decision has placed reliance upon the third-party dashcam footage. The dashcam footage is the only piece of contemporaneous evidence to show the third-party vehicle and Mr D’s vehicle (vehicle registration number visible) in the location, along with the movement to the third-party vehicle when Mr D’s vehicle passes.

Although I understand Mr D has asked for a copy of the dashcam footage, AXA has been unable to provide this to him due to permission not being granted by the third-party or their representatives. I know Mr D will be disappointed by this, however, I am satisfied AXA have reviewed the footage when reaching its liability decision.

AXA has also been asked, why if the collision occurred is there no damage to Mr D’s vehicle? AXA have said it has seen many instances of an impact occurring where one of the two vehicles has no damage. I’m therefore satisfied AXA have considered Mr D’s assertion there was no damage to his vehicle along with his photographs when reaching its liability decision. AXA say that, had the matter proceeded to court, the dashcam footage would’ve been more compelling. And it believes it wouldn’t be reasonably possible to show Mr D didn’t cause the damage the third-party has claimed for. And I can’t say its conclusions are unreasonable in this regard.

I therefore believe AXA followed a fair and reasonable process in assessing whether to deal with the third-party claim. AXA utilised the terms it was afforded under page 30 of the policy terms and conditions booklet (referenced above), as it’s entitled to do.

The claim will continue to be recorded as bonus disallowed and going forward Mr D may see an impact to his insurance premium.

AXA offered to pay £175 to Mr D for what it described as distress and inconvenience and a goodwill offer relating to a delay in responding to him.

AXA didn’t need to pay any compensation to Mr D, but it did. Mr D’s unhappiness seems to stem from the third-party’s claim being made against him and that AXA decided to settle the claim – which it maintains was a reasonable decision. I understand from the file AXA has paid this, but Mr D should contact AXA if it hasn’t done so.

Overall, I find AXA has been reasonable in the way it has dealt with Mr D’s claim and administered the policy.

My final decision

For the reasons I've explained above, my final decision is that I don't uphold Mr D's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 26 November 2024.

Lorna Ball
Ombudsman