

## **The complaint**

Mr M complains about how AXA Insurance UK Plc (AXA) dealt with a claim by a third party against his motor insurance policy.

## **What happened**

Mr M had motor insurance with AXA. Ms M, a named driver on the policy, was involved in an accident with another driver. That driver made a claim against Mr M's insurance, saying that Ms M had opened her car door into his car. Ms M said that she had her car door open and the other driver drove into it.

At first AXA suggested the claim be settled on a 50:50 basis. AXA thought that if the case went to court it would be unlikely to win. Mr M wasn't happy with this so AXA instructed an independent engineer to examine the car and produce a report. AXA also asked another engineer to carry out a consistency report using scene images, inspection reports and images of both vehicles. The engineers were asked which driver's version of events was more likely considering the damage to the cars. The advice was that the claim should be settled.

Mr M wasn't happy about this and complained to AXA. AXA said that the claim was determined based on evidence provided and reports made concerning the damages and circumstances and it had operated in line with the policy terms and conditions.

Mr M wasn't happy with what AXA said and complained to this service. Our investigator didn't uphold his complaint. She said AXA responded to the claim made against Mr M in line with the policy terms and conditions. She said AXA took reasonable steps to obtain information and evidence to settle liability on the best terms.

Mr M wasn't happy with what the investigator said so the complaint has been passed to me. Mr M says AXA staff have lied repeatedly and contrived to produce a totally false report. He wants AXA to withdraw the false report, pay for an independent report, apologise, and employ staff who can be trusted.

## **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 don't uphold Mr M's complaint. I'll explain why.

Firstly it's important to say that I can't look at anything that happened after 5 April 2024, the date AXA issued its final response letter to Mr M. This is because this service can only look at complaints where the business concerned has had an opportunity to respond. I understand that things have changed quite a bit since that date, but if matters are still not resolved it is open to Mr M to make a further complaint to AXA and then to this service if he isn't satisfied with AXA's response.

It's also not my role to decide who was at fault for an accident. If there is a disagreement ultimately only a court can decide this.

Mr M's insurance policy documents with AXA said:

*"What we will do*

*We will:*

*...have the right to take over and deal with the defence or settlement of any claim in the name of the person making a claim under this policy. We may also pursue any claim to recover any amount due from a third party in the name of anyone claiming cover under this policy".*

This is a common term in motor insurance policies and one which this service would usually consider to be fair and reasonable. It means that AXA had the right to settle the claim from the third party in the way it saw best and without needing the policyholder's permission or agreement. However we will look at whether a business applied the term fairly and reasonably.

AXA acknowledged some confusion at the very start of the claim when the third party insurer gave it some incorrect information about what its driver said happened. However once that was clarified, both sides kept to their version of events. There was no CCTV evidence or independent witness and so it was the word of one driver against the other.

AXA had an independent engineer's report advising it to settle the claim. As at the date of the final response letter AXA had no other expert evidence contradicting this. So I think that AXA acted fairly and reasonably and according to the terms and conditions of Mr M's policy based on the information it had at the time. I have seen nothing to suggest that the reports AXA obtained were false, or that AXA staff lied. There is no advantage to AXA in accepting that their policyholder was liable and settling a claim from a third party. It may be the case that another engineer may have come to a different conclusion but the reports are the engineer's opinion and a difference of opinion doesn't mean a report is false. So based on the information available as at 5 April 2024 I won't be asking AXA to withdraw the report.

### **My final decision**

For the reasons given above I don't uphold Mr M's complaint. So I won't be asking AXA Insurance UK Plc to do anything.

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

Sarah Baalham  
**Ombudsman**