

The complaint

Mrs H complains about AXA Insurance UK Plc (“AXA”) declining a claim she made on her car insurance policy because it thought the claim was fraudulent.

What happened

In July 2021 Mrs H was involved in a collision with another vehicle which she said was her fault. So, she contacted AXA to make a claim.

AXA investigated the claim but eventually decided to decline it and it wrote to Mrs H saying it didn’t think the incident had occurred as described by her, if at all.

Mrs H complained, and AXA provided a final response in June 2023. AXA said it didn’t think it had unfairly declined the claim, because it thought Mrs H had provided false information and had likely staged the incident, so it thought the claim was fraudulent.

Our investigator thought AXA had shown it had reasonable grounds to think the claim was fraudulent. So, she didn’t think it had acted unfairly by declining the claim.

Mrs H didn’t agree, so the complaint was referred 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, while I understand Mrs H will be disappointed by this, I’ve decided not to uphold the complaint. I’ll explain why.

I should start by saying while I’ve read and considered everything Mrs H and AXA have provided, I won’t be commenting on every point made. I’ll instead concentrate on what I consider are the key points I need to think about for me to reach a fair and reasonable decision. This isn’t meant as a discourtesy to either party, but instead reflects the informal nature of this Service.

It isn’t for me to determine if Mrs H acted fraudulently. My role is to decide whether AXA acted unfairly by declining her claim because it thought that she had.

I’ve begun by looking at the policy terms. These say AXA may take various actions including not paying a claim if the insured, or anyone acting on their behalf, makes a fraudulent claim. I don’t think this term is unusual or unreasonable, as under the Insurance Act 2015 insurers are permitted to refuse to pay a claim which is false or exaggerated.

However, fraud is a serious accusation which can cause significant detriment to a consumer. And for AXA to fairly decline the claim, it needs to show it had enough to reasonably think Mrs H’s claim likely was false. I’ve considered if it has shown this.

Mrs H provided a witness statement setting out her version of events. In summary, she said:

- While proceeding along a road, she glanced at her phone causing her to drift towards the centre.
- She saw an oncoming vehicle, which she estimates was less than one car away, so she swerved to the left.
- The front driver's side of her car hit the driver's side door of the other vehicle, following which crashed into the wall of the bridge she was driving over.
- She exchanged details with the other driver. But she didn't know this driver prior to the accident.
- She described the damage to her car as: *"the damage was to the tyre on the passenger side, it was dented on both sides of the body"*. She described the damage to the other car as: *"I damaged the driver side wing and door"*.
- She said: *"I was not able to drive my car as it was damaged and I was so shocked. I moved my car round to the industrial estate and so did the other driver"*. And: *"Both vehicles had to be recovered"*.

The third party's description of the accident was that as she was driving over the bridge, Mrs H veered onto her side of the road causing both vehicles to scrape past each other on the driver's side of both cars. She then swerved to the left clipping the curb and Mrs H hit her car hard into the wall.

I acknowledge there have been various concerns AXA raised regarding the claim such as the purpose of Mrs H's journey, the route she took, whether she moved the car after the accident, and her initially saying she swerved to the right but later changing this to say she swerved to the left. But I think looking at AXA's final response, the main reason it thought the claim was fraudulent was due to a forensic collision investigation report it commissioned.

In summary, the forensic engineer based his findings on a physical inspection of Mrs H's car and other engineer's reports for both Mrs H's car and the third party's car. In his report, he set out the circumstances of the accident – as reported by Mrs H and the third party – the findings from the previous engineers' reports, the findings of his own inspection on Mrs H's car, and a detailed analysis of the damage to both cars setting out why he didn't think specific areas of damage were consistent with the accident.

The forensic engineer set out a clear conclusion that he thought the damage to both vehicles wasn't consistent with a collision with each other or the accident circumstances and he thought both vehicles had instead been damaged in multiple separate and unrelated incidents.

I'm satisfied the forensic report was produced by an appropriately qualified engineer. And I find it to be a persuasive piece of evidence.

So, unless there was persuasive evidence to the contrary, I think this report gave AXA reasonable grounds to think the claim likely was fraudulent. I've considered if anything has been provided which places in doubt the conclusion of the forensic report.

A validation report was provided dated 8 July 2022 from a garage that inspected Mrs H's car. This report sets out a list of the damage to Mrs H's car and says: *"On review of the faults, all*

of the pre-existing fault records are information codes or relate to minor issues and are not of concern...We found no information of concern within this vehicle”.

I acknowledge this report didn't find any concerns. But I find the forensic report more persuasive. I say this because the validation report only describes the damage to Mrs H's car and only appears to be based on an inspection of Mrs H's car. And it doesn't include the same level of detail as the forensic report.

In contrast, the forensic collision investigation report was based on a review of the damage to *both* vehicles and provided a more in-depth analysis of the various areas of damage.

I note Mrs H said she would obtain her own engineer's report after the investigator provided her opinion. But Mrs H hasn't provided this. And Mrs H has also now been provided a copy of the forensic report and was invited to comment. But she didn't respond.

The policy terms allowed AXA to decline the claim if it was fraudulent. But to do so fairly, AXA needed to show it had enough to reasonably think the claim likely was fraudulent. I think AXA has reasonably shown that based on the forensic report. And although the validation report didn't show any concerns, I find the forensic report more persuasive and haven't seen anything more which contradicted it. Based on these points, I don't find AXA acted unfairly by declining Mrs H's claim.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 28 February 2025.

Daniel Tinkler
Ombudsman