

The complaint

Mr A complains about the settlement he's received from AXA Insurance UK Plc (AXA) following a claim under his motor trade insurance policy.

Where I've referred to AXA, this also includes any action or communication by agents acting on their behalf.

What happened

Mr A has a commercial motor trade insurance policy with AXA. When Mr A was driving a car covered by the policy he was hit by a third-party driver, so he made a claim to AXA.

AXA accepted the claim and due to the damage to Mr A's car, it was declared a total loss. However, when Mr A received the claim settlement payment, he says it was less than he was expecting based on the conversation he had with AXA. Mr A complained to AXA about the settlement amount, he was also unhappy with the long wait times in trying to get through to AXA and not being called back.

AXA responded to Mr A's complaint. They said the call recording from when the settlement was discussed was unavailable, but they said they were satisfied the settlement paid was correct. AXA accepted the call waiting times had been long and apologised for this.

As Mr A remained unhappy, he approached the Financial Ombudsman Service.

One of our investigators looked into things and upheld the complaint in part. He said that as the call recording was unavailable, he was unable to determine exactly what was discussed. And in the absence of this, he said it would be reasonable to rely on what the engineers report said about the settlement, and this was in line with the settlement Mr A had received.

The investigator also said the value placed on the vehicle by the engineer was significantly more than the trade guides, so the valuation before the deductions was fair.

However, the investigator said he could understand it was frustrating for Mr A that the call recording was unavailable so it couldn't be determined exactly what was discussed, and if he was expecting to receive more than he did, then he incurred a loss of expectation even if the settlement actually paid was reasonable. He also said there were long wait times for Mr A to speak to AXA. So, the investigator recommended AXA pay £75 compensation.

AXA agreed with the recommended compensation. However, Mr A didn't agree and maintains that he should receive the settlement that was agreed with AXA regardless.

As an agreement couldn't be reached the case was passed to me for a final decision.

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, whilst I appreciate it'll come as a disappointment to Mr A, I've reached the same outcome as our investigator.

There is no dispute that a call took place between AXA's agent and Mr A to discuss the settlement following his vehicle being declared a total loss. However, AXA's agent called Mr A from a mobile phone and the call wasn't recorded.

Exactly what settlement was agreed during this call remains in dispute. The valuation placed on the vehicle was £3,800 and Mr A doesn't dispute this. But Mr A says he expected to receive £3,000 based on what was discussed, but he only received £2,500. Mr A received £2,500 after deductions of his £350 excess and £950 for salvage (as he wished to retain the damaged vehicle).

Unfortunately, without being able to listen to the call, I can't determine exactly what was discussed. Having said that though, I do acknowledge Mr A's testimony about what was discussed and his strength of feelings on the matter and why he is dissatisfied with receiving less than he said was agreed. And I accept that it could be the case that Mr A was led to believe, or was incorrectly told, he'd receive a higher amount.

However, even if I could listen to the call and it did demonstrate this, it doesn't automatically follow that I'd direct AXA to pay that amount if it was in fact an error, or incorrect advice, or higher than was actually a fair settlement under the policy. That's because I'd also need to consider whether what AXA had paid was actually correct and fair, regardless of Mr A being incorrectly told a higher amount. But clearly if that was the case and Mr A was expecting more then there would have been a loss of expectation.

When we look at disputes about vehicle valuations, as a starting point, we'd usually take into account the relevant trade guides. And we'd consider any other information available. I can see that AXA's engineer looked at the relevant trade guides which produced a valuation of £1,856. Our investigator also looked at a different trade guide which produced a valuation of around £1,000.

The engineer took into account what Mr A said about the condition and rarity of the vehicle model, and adverts, and increased the valuation to £3,800. So, the base valuation placed on the vehicle was significantly higher than either of the trade guides. But in any event, Mr A doesn't dispute the base valuation of £3,800.

However, Mr A says AXA's agent said they'd 'work with the figures' so he'd receive £3,000. So, he was unhappy when he then received £2,500. AXA says the settlement and deductions are in line with the engineer's report and are correct.

I've taken into account the engineers report. The salvage cost calculated in this is £950. Whilst Mr A says he was told it would be £750, in the absence of the call recording, I can't establish exactly what was discussed. But I don't think that amount is unreasonable based on the valuation being £3,800, and of course if Mr A didn't want to retain the damaged vehicle, then salvage wouldn't have been deducted from the settlement.

Whilst I recognise Mr A says the third-party was responsible for the accident, his £350 excess was always deductible under his policy as an uninsured loss. With this in mind, I don't think the settlement Mr A actually received is unreasonable, as based on an initial valuation of £3,800, and with the salvage and excess deduction, this totals £2,500 which is what Mr A received. This is in line with the engineer's report, and I don't think this is unfair.

As outlined above, even if I give Mr A the benefit of doubt due to AXA's failure to record the call and Mr A was in fact given incorrect advice that he'd receive £500 more than he did (which I can't determine for certain either way), I'm satisfied the settlement payment is fair and reasonable for the reasons outlined above, so I won't be directing AXA to increase this. However, I recognise there is a potential loss of expectation, so I've taken this into account along with the service Mr A received.

Clearly the lack of a call recording has caused Mr A frustration over the settlement. And it's also recognised by AXA that the call waiting times were too long. And Mr A has had to contact AXA a number of times regarding the settlement, and there is a potential loss of expectation as outlined. And having taken everything into account, I agree with our investigator that AXA should pay Mr A £75 compensation for this.

I recognise Mr A's strength of feelings on the matter, and that it's the principle rather than financial amount. And he maintains an agreement should be adhered to, he's been lied to, and therefore he should receive an extra £500 in settlement regardless of whether the amount received was correct and fair. But I'm satisfied AXA has paid a fair and reasonable settlement, so I won't be directing them to increase this.

My final decision

It's my final decision that I uphold this complaint in part and direct AXA Insurance UK Plc to:

- Pay Mr A £75 compensation

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 15 November 2024.

Callum Milne
Ombudsman