

The complaint

A limited company, which I will refer to as D, complains about the decline of its commercial motor insurance claim by AXA Insurance UK plc.

What happened

The following is intended only as a brief summary of events. Additionally, whilst other parties have been involved in the process, for the sake of simplicity, I have largely just referred to D and AXA.

D had a commercial motor insurance policy underwritten by AXA. In November 2022, D acquired two vehicles on finance. These were stolen shortly afterwards. D notified its insurance broker of the theft, and the broker asked D for further information. But it does not seem this was responded to, and a claim was not pursued with AXA at this point. D has said that this was due to health issues being experienced by its finance director.

The fact that the claim had not been pursued came to light when a new finance director took over in November 2023. The claim was then pursued with AXA, but AXA declined the claim on the basis that D had not notified it of the claim at the time.

The relevant version of the policy wording for the year in question includes the following term:

“After any accident, bodily injury, loss, theft or damage happens to you, your vehicle or anyone else you must immediately contact our 24 hour claims helpline. This is regardless of whether you wish to make a claim under the policy. Delay in notifying us of an incident may increase claim costs, which you will become liable to pay. It may also invalidate your right to claim.”

And AXA said that as D had not complied with this term, it was declining the claim.

D complained about this decision, referring to the issues experienced by its former finance director. AXA’s final response to this complaint did not address these points, and merely said that D’s complaint should be against its broker.

D remained unsatisfied and referred the complaint to the Financial Ombudsman Service. Our Investigator recommended the complaint be upheld. He thought it would only be reasonable for AXA to rely on the above term if it could demonstrate that it had suffered prejudice by the delayed notification. But that AXA had not demonstrated such prejudice. He thought AXA should consider the claim on the remaining terms of the policy.

AXA did not accept the Investigator’s recommendations. So, this complaint has been passed to me for a 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, I am upholding this complaint. I'll explain why.

AXA has been asked to demonstrate that the late notification caused it prejudice. AXA has referred to two points.

The first is that the policy was since renewed, and AXA was unable to take the theft into account when providing this renewal. However, not only would this not be relevant to AXA's ability to consider the claim itself, D has provided evidence that its broker advised what appears to be AXA's broker, in January 2023, of the fact the two vehicle's needed to be removed from cover due to their theft.

The second reason AXA gave to explain that its position was prejudiced is that its investigation of the claim would involve taking statements from the last known driver. However, this driver provided a written statement and there appears to be no reason why they could not provide anything further AXA reasonably requires to investigate the circumstances of the claim.

So, I do not consider AXA to have demonstrated that its ability to assess the claim has been materially prejudiced by the late notification. Given the circumstances, I consider it would be fair and reasonable for AXA to reassess the claim on the remaining terms of the policy.

Putting things right

AXA Insurance UK Plc should put things right by reconsidering D's claim based on the remaining terms of the policy.

My final decision

My final decision is that I uphold this complaint. AXA Insurance UK Plc should put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask to accept or reject my decision before 15 January 2025.

Sam Thomas
Ombudsman