

The complaint

Mr A complains that AXA Insurance UK Plc trading as Moja unfairly treated his policy as void and declined to pay a claim.

What happened

The subject matter of the insurance, the claim and the complaint is a car, first registered in 2017. Mr A acquired the car. He used a comparison website (or “aggregator”) to take out a policy for the vehicle for the year from early July 2023.

In late November 2023, Mr A reported that an accident had seriously damaged the car. By a notice dated early December 2023, AXA said that Mr A had failed to declare certain information when he took out the policy. AXA treated the policy as void and declined the claim.

Mr A complained to AXA that he had given correct information when he took out the policy. By a final response dated 24 January 2024, AXA turned down the complaint.

Mr A brought his complaint to us in early June 2024.

Our investigator recommended that the complaint should be upheld. She didn't think that AXA had sufficiently evidenced the reason behind the voidance and repudiation. She recommended that AXA should:

1. reinstate Mr A's policy; and
2. process his claim in accordance to the terms of his policy; and
3. pay compensation in the sum of £150.00 for the distress and inconvenience to Mr A.

Mr C responded to the investigator's opinion. He said, in summary, that:

- The accident caused him injury.
- Following the accident, his car, valued at £17,000.00, was deemed a total loss.
- Since the accident, he's been without a vehicle.
- The loss of his car led to missed work, the loss of his job, and considerable financial and emotional stress.

AXA disagreed with the investigator's opinion. It said in late November 2024 that it had:

- *“requested the customers online footprint”*.

The investigator asked for an ombudsman to review the complaint.

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.

The relevant law includes Consumer Insurance (Disclosure and Representations) Act 2012 ("CIDRA"). CIDRA imposes a duty on a consumer to take reasonable care not to make a misrepresentation to an insurer when taking out a policy.

If the consumer doesn't comply with that duty and makes a "qualifying misrepresentation", then CIDRA gives the insurer certain remedies. A misrepresentation is qualifying if it makes certain differences to the insurer. If the difference is that the insurer wouldn't have offered cover, then the remedies include treating the policy as void and declining to pay any claim.

From what Mr A has said, in July 2023, he had an international driving licence and he'd been living in the UK for about one year.

I've seen evidence that the comparison website asks consumers questions including the following:

"When did the driver start continuously living in the UK?"

"What type of licence does the driver currently have?"

"How long has the driver held their licence?"

I've also seen evidence that AXA recorded information for Mr A including the following:

*"Lived permanently in the UK **8+ years***

...

*Licence type **Full UK licence***

*Licence held for **Up to 13 years***

Licence number [blank]"

From internal and confidential information from AXA, I'm satisfied that it wouldn't have offered cover to Mr A if he'd said he had an international driving licence that hadn't been exchanged for a UK licence.

However I'm not satisfied that AXA has provided enough evidence (such as the promised online footprint) to show that – in answer to the questions – Mr A had said that he had a full UK driving licence or that he'd held it for up to 13 years or that he'd lived in the UK for more than 8 years.

Also, I haven't seen enough evidence to show that AXA wouldn't have offered cover to any driver who hadn't lived in the UK for a minimum number of years.

So I'm not satisfied that AXA has shown that Mr A made any careless or qualifying misrepresentation.

I accept Mr A's statement that the accident injured him. The accident and the need to make a claim were also, in my view, bound to cause Mr A distress and inconvenience. However, AXA was obliged to deal with his claim promptly and fairly.

I don't consider that AXA treated Mr A fairly by treating the policy as void and declining his claim.

Putting things right

I've thought about what it's fair and reasonable to direct AXA to do to try to put things right for Mr A at this late stage.

I've thought about directing AXA to reinstate the policy. However, the policy would've expired in early July 2024. So, I will direct AXA not to treat the policy as void at the time of the accident in late November 2023. I will also direct AXA to reconsider Mr A's claim in line with the policy terms (except any terms relating to making a misrepresentation when taking out a policy).

I expect AXA's reconsideration to result in a payment to Mr A. Insofar as it does, then I consider that it should've paid him within a month of the claim, that is by 26 December 2023 and I find it fair and reasonable to direct AXA to pay interest at our usual rate from that date.

Mr A has told us that AXA's actions not only stopped him from driving a car, but also led to the loss of his job. However, when he brought the complaint to us in June 2024, he gave his occupation as a telephone advisor. And he hasn't given enough detail of his earnings before or after AXA's decision on his claim. So I don't find it fair and reasonable to direct AXA to pay Mr A compensation for any loss of earnings.

Nevertheless, I don't doubt that – by actions I've found unfair – AXA caused Mr A extra distress and inconvenience at an already difficult time for him. He hasn't provided much evidence of the extent of that impact. So - weighing up the evidence - I consider that £150.00 is fair and reasonable compensation in line with our published guidelines.

Mr A may show this decision to other insurers if and when he gets another vehicle.

My final decision

For the reasons I've explained, my final decision is that I uphold this complaint in part. I direct AXA Insurance UK Plc trading as Moja to:

1. not treat the policy as void at the time of the accident in late November 2023; and
2. reconsider Mr A's claim in line with the policy terms (except any terms relating to making a misrepresentation when taking out a policy); and
3. pay Mr A simple interest at a yearly rate of 8% on any sum it pays him in settlement of his claim, from 26 December 2023 to the date of its payment. If AXA considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Mr A how much it's taken off. It should also give him a certificate showing this if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate; and
4. pay Mr A £150.00 compensation for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 12 February 2025.

Christopher Gilbert
Ombudsman