

The complaint

Mr M complains that AXA Insurance UK Plc (“AXA”) unfairly declined his claim for the theft of his car, under his motor insurance policy. He wants it to pay his claim as well as the additional payments he’s made for his car’s finance.

What happened

Mr M agreed with a third-party business (I’ll refer to as A) that it would sell his car for him. He says A told him it would settle the remaining finance when it sold his car. It would then pay him the remainder less its selling fee. However, this didn’t happen. A sold his car, but didn’t pay off any of the remaining finance, and didn’t pay anything to Mr M.

Mr M explains that he reported this matter to the police. He now knows that A is part of a fraud operation. He says around 40 other car owners have been targeted by A in this way. Mr M contacted AXA to make a claim under his policy. But it declined his claim. Mr M didn’t think AXA could reasonably decline his claim in these circumstances and complained.

In its final complaint response AXA says that Mr M’s car was under the custody of A with his permission when the loss occurred. It says its policy terms specifically exclude cover in these circumstances.

Mr M didn’t think AXA had treated him fairly and referred the matter to our service. Our investigator didn’t uphold his complaint. She says AXA’s policy terms don’t provide cover in these circumstances. And she didn’t think it had acted unfairly.

Mr M didn’t accept our investigator’s findings and asked for an ombudsman to consider his complaint.

It has been passed 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.

I can understand Mr M’s frustration and disappointment with AXA’s decision to decline his claim. This has meant a significant financial loss for him. I’m naturally sympathetic to his situation. But having considered the evidence I’m not upholding his complaint. Let me explain.

AXA relied on a policy exclusion to decline Mr M’s claim. It says:

“What is not covered under this section

..Loss of or damage to your car if, at the time of the incident, it was under the custody or control of anyone with your permission who is not covered under this policy.”

I've thought about the circumstances of Mr M's loss to understand if AXA relied on this exclusion fairly.

In the witness statement Mr M provided to the police he says he received a call from A through the online selling platform he used to advertise his car for sale. In his statement Mr M says he drove his car to A's showroom. He believed the business was legitimate with a well-presented forecourt and a number of expensive cars on display.

Mr M says he met with A's representative. The rep explained that A would look to sell the car in excess of the price Mr M had advertised it for. A would keep any additional profit, settle the finance remaining on the car and pay the remainder direct to Mr M's bank account. This would happen within 24 hours of the sale. Mr M says he did some research to ensure A was a legitimate business. He says it was VAT registered and was accredited by the Financial Conduct Authority (FCA).

Mr M says he signed the sale or return agreement with A's representative for an initial 30-day period. He then handed over the keys to his car and took a taxi home.

Mr M says he was in regular contact with A. He suggested taking the car back over the winter months as it was less likely to sell. He was then told a sale had been agreed. But later told this had fallen through. Mr M says he continued to message A over several months. Around five months after dropping it off Mr M was again told by A that his car had been sold. However, no payment was provided. He was subsequently contacted by someone claiming to have bought the car. He asked Mr M if he was the previous owner and queried why there was outstanding finance.

Mr M confirms that none of his outstanding finance was paid, and he received no payment from A.

Insurance policies don't cover every loss a policyholder may suffer. Terms and conditions apply to every policy. In this case the term that AXA has relied on restricts cover if, at the time of the loss, the vehicle was under the custody of someone, with Mr M's permission, who isn't covered under his policy.

I think this term is clear. Mr M by his own admission willingly gave control of his car over to A. At some point whilst the car was under the custody/control of A, Mr M's loss occurred. So, I don't think it was unreasonable for AXA to rely on this exclusion to decline his claim.

I acknowledge Mr M's comments that there are other scenarios where this exclusion could result in a claim not being covered. He gives the example where a car is left with a garage to be serviced, or when using a meet and greet service at an airport. I understand his point. But my role here is to consider Mr M's claim not hypothetical scenarios. Having done so I don't think AXA treated him unfairly when relying on the exclusion it did to decline his claim.

Mr M raised a concern that he felt bullied by AXA to withdraw his claim. I've read the email he's referred to from May 2024. In this email AXA says it isn't able to assist Mr M with his claim. It says it's giving him the option to withdraw, which will mean the record will show as a notification only and his no-claims discount won't be affected. I note AXA refers to a deception or fraud exclusion in this email. This isn't the exclusion it ultimately relied on to decline Mr M's claim. But I don't think this is of relevance. A declined claim record is likely to have a greater impact on future insurance premiums than a notification only record. I don't think it was unreasonable to highlight this option to Mr M.

Having considered all of this, although I'm sorry Mr M has suffered such a significant financial loss, I don't think AXA acted unfairly when it relied on the exclusion it did to decline

his claim. So, I can't reasonably ask it to do anymore.

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 Mr M to accept or reject my decision before 17 April 2025.

Mike Waldron
Ombudsman