

## **The complaint**

Miss K is complaining about the way AXA Insurance UK Plc has handled a claim she made on her car insurance policy after she was involved in an accident; particularly in that it didn't inspect her car like it promised.

## **What happened**

In November 2023 Miss K was involved in an accident when her car lost control. AXA considered Miss K's car a total loss and said it would pay her the car's market value less her excess.

Miss K said she was a survivor of a domestic and economic abuse relationship. And she expressed concern that she thought her ex-partner might have deliberately tampered with the car, which is what she thinks caused her to lose control. So she asked AXA to arrange a thorough inspection of the car. AXA said it would appoint an independent company to inspect the car.

However, it later said that the independent inspector had said there wasn't anything to show the car had been tampered with and said there was evidence of corrosion. Miss K was unhappy because the inspector had said he hadn't put the car on a ramp and had highlighted the inspector said the car needed to be stripped down to fully inspect it. So she didn't think the car had been properly inspected. And she wanted AXA to carry out a more detailed investigation.

AXA said it wasn't willing to carry out further investigations. But it acknowledged it had been an upsetting time for Miss K and said it would pay her £100 in compensation for this plus a further £25 for a delay in reviewing her complaint. It also said it wanted to pay the claim settlement to Miss K.

Miss K didn't think AXA was being fair. She also said she didn't want AXA to pay the settlement as that would mean the car would be disposed of, which would prevent her being able to carry out further inspections of it. She reiterated she was a survivor of a domestic and economic abuse relationship and said AXA had a duty in law to support her. She also said she'd spoken with the Police who'd told her it was AXA's responsibility to inspect the car. So she referred her complaint to this Service.

Since doing so, AXA acknowledged further it didn't handle the claim fairly. It said it didn't tell Miss K she could accept the settlement amount as an interim payment while pursuing her dispute. And it recognised Miss K hadn't had her settlement payment. It said it was aware Miss K's broker had arranged a courtesy car for her. But it acknowledged there might have been a period of time when she didn't have a car or the funds to replace it. So it said it would pay Miss K loss of use at £10 per day from when the courtesy car was returned until 10 July 2024 when Miss K said she didn't want AXA to pay the settlement to her. It also offered to pay a further £400 in compensation. Miss K didn't accept this offer as she maintained AXA had a legal responsibility to carry out a detailed inspection of her car.

Our Investigator thought AXA's compensation offer was fair. She said she sympathised with

Miss K's situation. But she said the policy didn't require AXA to do the investigations Miss K wanted it to do. In summary, she said the following:

- Insurers will generally always look to see whether there's a third party that they can recover any outlay from. She said in this case Miss K was involved in a single car accident. And AXA had to consider whether there was another party liable. She said it wasn't a matter of showing whether Miss K was at fault or not, but whether it could show someone else caused the accident.
- She said AXA had set out that, even if it could prove the car had been tampered with, it wouldn't be able to prove who'd done it. And she didn't think it was unfair for it to say that.
- She noted Miss K had queried why the car had passed an MOT if it had the level of corrosion the inspector had highlighted. But she said Miss K would need to raise this with the MOT issuer directly.
- She thought AXA had unfairly raised Miss K's expectations in saying it would carry out a detailed investigation into the car. But she said AXA was now willing to pay £500 in compensation for this and she thought this was fair compensation.
- She acknowledged Miss K had complained AXA passed her details onto third parties. She said AXA had used a third-party salvage agent and an independent engineer. But she said that was standard practice and AXA was required to do so to facilitate the claim. And said the independent engineer was only instructed because Miss K wanted it to do so.
- She thought AXA's compensation offer to pay Miss K £10 per day for the time she was without a car until 10 July 2024 was fair as she hadn't seen anything to show Miss K had paid more than that for transport during that time.

Miss K didn't agree with the Investigator's opinion. She didn't think the Investigator had taken into consideration that she was the victim of domestic abuse and there was a suspicion the car had been tampered with because of this. She maintained the law required AXA to do a thorough inspection of the car. So she 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.

Miss K has raised a number of reasons about why she's unhappy with the way AXA has handled this matter. I've not commented on each and every point she's raised. Instead I've focussed on what I consider to be the key points I need to think about. I don't mean any discourtesy about this, but it simply reflects the informal nature of this Service. I assure Miss K and AXA, however, that I have read and considered everything they've provided.

#### *Inspection of the car*

I've carefully considered what Miss K has said about why she thinks AXA should have carried out a thorough inspection of her car. I naturally sympathise with the situation Miss K is in and I thank her for being open and honest with this Service about what's happened. Given what she's told us, I can understand her concerns and why she wants AXA to pay for a deep and thorough inspection. But I have to consider whether AXA was required to do so. I recognise this will disappoint Miss K, but I don't think it was and I'll explain why.

The terms of the insurance policy set out AXA's contractual responsibilities where Miss K's car is damaged in an accident and the say AXA will either:

- Repair the damage themselves; or
- Pay to have the damage repaired; or
- Pay to replace what is lost or damaged if this is more cost effective than repairing it; or
- Pay you an amount equal to the loss or damage.

The terms also placed certain other requirements upon AXA, such as to *“pay reasonable costs for the protection, removal and storage of the car and delivery after repair to your risk address.”*

But there isn't anything in the policy that requires AXA to inspect the car to understand what caused the accident. And no car insurance policy on the market would require an insurer to do that either. All insurers will consider whether there are reasonable actions they can undertake to be able show another party is at fault for causing the damage to enable them to recover anything they pay out on a claim. But it's not a matter of showing the policyholder isn't at fault, but whether they can recover the money from another party.

In this case, AXA has said, even if it can show Miss K's car had been tampered with and it was this tampering that caused the accident, an inspection wouldn't show *who* had tampered with it. So it's said any inspection it carried out wouldn't provide any assistance in being able to recover its outlay. I'm satisfied that, even if AXA did do a full inspection and it did reveal the car was tampered with, it wouldn't change the situation on the insurance policy as AXA still wouldn't be able to recover its outlay from another party. So I can't say it's unfair AXA doesn't want to pay the high cost of a detailed inspection when it wouldn't change the position on her insurance policy.

Miss K has said AXA has a duty in law and under insurance regulation to support her with this given it's aware she's a survivor of domestic abuse. AXA is required to – amongst other requirements – ensure it treats Miss K fairly, delivers a good outcome and avoids causing her foreseeable harm. This is also to be considered in conjunction with its requirements under the contract of insurance – i.e. it must have consideration of ICOBs and Consumer Duty when fulfilling its requirements under the contract. But I don't think the regulations will extend AXA's responsibility to go significantly beyond what the insurance contract required AXA to do in the specific circumstances of this complaint.

So, while I can fully understand why Miss K wants AXA to pay to carry out a detailed inspection of her car given what she's told us about her history, I can't say AXA is being unfair in saying it's unwilling to do so.

That said, AXA should have set out its position from the start. Instead it told Miss K it would carry out the inspection she wanted. So it was inevitably very upsetting for Miss K to hear AXA was reneging on this decision. I think Miss K's fundamental upset is down to that AXA won't carry out a second, more detailed inspection of the car and, as I said above, I can't say AXA has been unfair here. But AXA could have significantly minimised this upset by being clear, open and honest from the start. So it's right it compensates Miss K for this. AXA initially said it would pay £100 in compensation, which I don't think was sufficient. But it has now agreed to increase this to £500 which is in line with what I would have awarded. So I think this is fair compensation.

### *Claim settlement*

Miss K set out from the start she was disputing the way AXA would settle the claim because she was concerned about accepting the settlement. I think it's good practice for insurers to offer to pay a consumer the claim settlement as an interim payment when they dispute the settlement. But AXA didn't do so in this case. AXA has accepted this and has said it would pay Miss K £10 per day for the time she was without a car. I've thought about whether this is fair.

Where a consumer is without a car due to an insurer's unreasonable actions, I would expect the insurer to work out roughly how much extra it cost the customer to get around each day/week, taking into account what the customer has said and other evidence they provide. Miss K has provided evidence of expenses she incurred. I can see she hired cars on several occasions throughout this time. She's also provided several taxi receipts. I've considered these, but I'm not persuaded she's incurred more expenses than what AXA has said it would have paid. So it follows that I think AXA's compensation offer fairly compensates Miss K for any financial losses she may have incurred due to AXA not offering an interim payment. So I think the way AXA has said it would put things right is fair.

### *Summary*

As I said above, I naturally sympathise with the situation Miss K has found herself. And I do think AXA could have communicated with Miss K better throughout the claim journey – especially given what Miss K had told it of her circumstances. But I think the way it's offered to put things right is fair. And I'm not going to require it to do more than it's offered to do.

I understand AXA has set out that Miss K could arrange to carry out her own investigations (at her own expense) if she wants to. She's expressed concern that AXA will dispose the car which would prevent her from carrying out any investigations. But, as AXA previously set out, she may be entitled to buy back the salvage and retain the car to carry out any investigations should she want to. She should contact AXA directly if she wishes to do this.

### **My final decision**

For the reasons I've set out above, I uphold this complaint and I require AXA Insurance UK Plc to do the following to put things right:

1. Increase its compensation offer to £500.
2. Pay Miss K £10 per day from when Miss K handed back the courtesy car her broker arranged until 10 July 2024.

AXA Insurance UK Plc should pay this to Miss K directly if it hasn't already done so. I don't require it to do anything further.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss K to accept or reject my decision before 8 May 2025.

Guy Mitchell  
**Ombudsman**