

## **The complaint**

Mr W complains that AXA France IARD declined a claim on his Guaranteed Asset Protection (GAP) policy.

## **What happened**

Mr W took out a GAP policy with AXA in December 2020. In November 2023, Mr W was involved in a road traffic accident. He raised a claim but it was declined. Mr W was unhappy and raised a complaint. His complaint wasn't upheld as AXA didn't think they'd done anything wrong. Mr W brought his complaint to this service.

Our investigator didn't uphold the complaint. Whilst they didn't think AXA had acted fairly in some of the reasons to decline the claim, on the whole, our investigator didn't think AXA had done anything wrong in declining the claim. Mr W appealed. As no agreement could be reached, the complaint has been passed to me to make a final decision.

Because I disagreed with our investigator's view, I issued a provisional decision in this case. This allowed both AXA and Mr W a chance to provide further information or evidence and/or to comment on my thinking before I made my final decision.

## **What I provisionally decided – and why**

I previously issued a provisional decision on this complaint as my findings were different from that of our investigator. In my provisional decision, I said:

*"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.*

*Based on what I've seen so far, I intend to uphold Mr W's complaint.*

*When considering complaints such as this, I need to consider the relevant law, rules and industry guidelines. The relevant rules, set up by the Financial Conduct Authority, say that an insurer must deal with a claim promptly and fairly, and not unreasonably decline it. So, I've thought about whether AXA acted in line with these requirements when it declined Mr W's claim.*

*At the outset I acknowledge that I've summarised his complaint in far less detail than Mr W has, and in my own words. I'm not going to respond to every single point made. No discourtesy is intended by this. Instead, I've focussed on what I think are the key issues here. The rules that govern the Financial Ombudsman Service allow me to do this as it's an informal dispute resolution service. If there's something I've not mentioned, it isn't because I've overlooked it. I'm satisfied I don't need to comment on every individual point to be able to reach an outcome in line with my statutory remit.*

*I've set out my response under the same headings as our investigator below for consistency.*

## **Previous criminal conviction**

*AXA has said that Mr W should have informed them about his previous criminal conviction. They've said that had he done so, they wouldn't have offered Mr W the policy.*

*I've not been provided any evidence that shows Mr W was asked during the application about any previous criminal convictions, nor the policy terms and conditions set out that Mr W needed to disclose any criminal convictions. Based on what I've seen, I'm not sure why AXA would have expected Mr W to disclose his previous criminal conviction. So, I don't think it would be fair for AXA to rely on this to decline the claim.*

### **Accident account and circumstances**

*Whilst there are a couple of discrepancies in Mr W's testimony, I haven't seen anything that would be enough for AXA to decline the claim.*

*I note the interviews conducted with Mr W were three and six months after the accident, so they could have been done closer to the date of the accident. Following the interviews, a report was issued. In the second report, it made the following comments:*

*"He seemed willing to assist and there was nothing in his body language and how he responded to the questions to suggest that he was not telling the truth..."*

*Based on our enquiries to date, we feel that the collision has most likely occurred as alleged, but we feel we have not been provided with an honest account on the events leading up to the collision...*

*We doubt that it would be feasible to have staged such an incident and at the time of completing this report we are not aware of any conflicting engineering evidence."*

*Whilst it has been suggested that the third party insurer now have concerns about how the accident happened, no evidence has been provided to show why or substantiate any concerns.*

*Based on what I've seen, I don't think there is enough to decline the claim on this basis.*

### **Vehicle use**

*The policy sets out the following exclusion:*

*"What is Not Covered..."*

- Claims arising as a result of using the vehicle for any of the **Excluded Vehicle Uses**

### **Excluded Vehicle Uses**

*Any **Vehicle** used for competition, trial (other than treasure hunts), track days, rally, racing, pace making, greenlaning or off road use. Any **Vehicle** used for hire or reward, driving schools, delivery courier and emergency or recovery services."*

*AXA believe that Mr W has used his car to deliver items in connection with his business selling electrical products. This is based on Mr W's social media account and feedback from an auction website.*

*Mr W has a video on his social media in which it appears he's delivering a television. Mr W has said this was an advertisement and he didn't actually deliver this television. On the post, it states "I'll be honest, I deliver less than 10% of products but it's always fun to make content".*

*There are two feedback comments on the auction website. Both were more than a year prior to the screenshot being taken (the exact date isn't available) and both say the items were personally delivered by the seller.*

*It's not in dispute that Mr W has personally delivered items to his customers. The dispute is whether these deliveries were done in the insured vehicle. As AXA want to rely on an exclusion to decline the claim, the onus is on them to provide enough evidence to support the decline.*

*Our investigator felt AXA had provided enough, however, I disagree. AXA has mentioned around 44 sales completed by Mr W on the auction site. Mr W has provided us with a comprehensive list of invoices where he's paid for delivery. This is in excess of the roughly 44 sales AXA has mentioned. Mr W has also provided us with three invoices for rental vans and the insurance he's taken out to cover them. Mr W has said when he did make a delivery, he used a rental van.*

*Based on what I've seen, I don't think AXA has enough evidence to suggest Mr W was using the insured car to complete deliveries. So, I don't think it's fair for AXA to rely on this reason to decline the claim.*

### **Claim investigation**

*Mr W has also raised concerns about how AXA conducted the claim investigation. I don't think there were any issues or areas of concern in how AXA conducted the claim, even though I don't agree with the claim outcome. I don't intend to uphold this complaint point.*

*Whilst I appreciate Mr W will want this matter brought to a close, I don't think AXA are in the position to accept the claim at this time. So, I intend to tell AXA to consider the claim further in line with the policy terms and conditions. AXA may conduct further investigations in considering the claim further.*

*I do think AXA should pay Mr W compensation for the trouble and upset caused in unfairly declining the claim. I appreciate it must have been frustrating for Mr W to have his claim declined. I've considered everything in the round and I think Mr W has been caused considerable distress, upset and worry which has taken a lot of extra effort to sort out over several months. In line with our website guidelines, I intend to award Mr W £300 for the trouble and upset caused."*

I set out what I intended to direct AXA to do to put things right. And gave both parties the opportunity to send me any further information or comments they wanted me to consider before I issued my final decision.

### **Responses to my provisional decision**

AXA accepted my provisional decision.

Mr W didn't confirm whether he accepted the provisional decision or not.

### **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've thought carefully about the provisional decision I reached. Having done so, and as neither party has provided anything which could lead me to depart from my provisional

decision, my final decision remains the same as my provisional decision, and for the same reasons.

Should AXA decline the claim again following reassessment, Mr W would be able to raise a new complaint with AXA.

### **Putting things right**

To put things right, AXA should do the following:

- Pay Mr W £300 compensation
- Reassess the claim under the remaining terms of the policy

### **My final decision**

For the reasons I've explained above, I uphold this complaint and direct AXA France IARD to put things right by doing as I've said above, if they haven't already done so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 24 October 2025.

Anthony Mullins  
**Ombudsman**