

## **The complaint**

Mrs W complains that AXA Insurance UK Plc settled a claim made on her motor insurance policy as fault. She wants it to change this to non-fault.

## **What happened**

Mrs W was involved in an incident with another driver. AXA initially held her not at fault. But after it received the other driver's version of events and a statement from an independent witness, it decided that it couldn't defend Mrs W. And so it accepted liability and recorded the claim as fault against Mrs W.

Mrs W was unhappy with this decision, with the veracity of the independent witness statement, that AXA didn't contact her when it made its liability decision and during its investigation of her complaint.

Our Investigator didn't recommend that the complaint should be upheld. He thought AXA was entitled to settle the claim as it saw fit after reasonably investigating it and considering the evidence available. He thought AXA had reasonably decided that the other driver's evidence and the witness statement would outweigh Mrs W's evidence. Mrs W had provided evidence from her garage. But the engineer hadn't inspected the other car. So he couldn't say that this or further testimony from Mrs W would have changed AXA's decision.

Mrs W replied that she didn't accept that she was at fault. She thought AXA should have defended the claim in court. She thought the witness statement was fabricated as it didn't explain how the damage to the cars was caused. Mrs W asked for an Ombudsman's review, so her complaint has come to me for a final 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.

I can understand that Mrs W feels frustrated that a fault claim has been recorded on her record when she's adamant that she wasn't to blame.

Mrs W said the other driver pulled into a narrow lane and accelerated towards her when it wasn't safe to do so. Mrs W said she had tried to avoid a collision by pulling into a driveway and the other driver hit her stationary car. But the other driver said Mrs W had moved forward and hit her car. And an independent witness confirmed this version of events.

The Investigator has already explained that it isn't our role to decide who was responsible for causing the accident. This is the role of the courts. Instead, our role in complaints of this nature is simply to investigate how the insurer made the decision to settle the claim. Did it act fairly and reasonably and in line with the terms and conditions of the policy? And has it treated Mrs W the same as someone else in her position.

As set out on page 46 of Mrs W's policy booklet, AXA is entitled under the terms and conditions to take over, defend, or settle a claim as it sees fit. Mrs W has to follow its advice in connection with the settlement of a claim, whether she agrees with the outcome or not.

This is a common term in motor insurance policies, and I do not find it unusual. Insurers are entitled to take a commercial decision about whether it is reasonable to contest a third party claim or better to compromise.

That said, we expect an insurer to reasonably investigate a claim and consider the evidence available before making a decision on liability.

The evidence that AXA had to consider was the two drivers' versions of events, the damage caused to the cars, and the independent witness statement. The drivers' accounts conflicted. I can't see that the damage caused to the cars supported either version of events. Mrs W provided a statement from her garage, but this isn't a consistency report. There's no doubt that the cars collided and the garage's report is based on Mrs W's account. So I can't say that it provides independent evidence for AXA to consider.

But the independent witness's testimony confirmed the other driver's account, and he held Mrs W at fault. He said he was prepared to attend court if needed.

I can see from its file that AXA considered this evidence and because of the confirmation by the independent witness thought it would be unable to defend Mrs W if the matter went to court. So it accepted liability and Mrs W was held at fault.

Mrs W was unhappy that it decided this without discussing its decision with her. But I can see that Mrs W later supplied a pack of information to support her account. AXA then reviewed this, but it didn't change its decision. So I can't say that an earlier discussion with Mrs W would have made any difference to the outcome.

Mrs W thought AXA should have contacted her during its investigation of her complaint. The Investigator explained that dissatisfaction solely about the way a business has handled a complaint does not fall within the scope of our jurisdiction.

I agree that it would have been good customer service for AXA to contact Mrs W when it was investigating her complaint. But I think Mrs W's concern is a standalone issue and not a complaint about the underlying financial service or how AXA has administered its business in providing that financial service. So it's not something I can consider here.

Mrs W had concerns about the independent witness. But she hasn't said he wasn't present at the scene of the accident. She noted that the other driver then spoke with him. So I can't see that there were any issues that should have caused AXA to doubt his testimony.

So I'm satisfied that AXA reasonably investigated the claim and considered the evidence available before deciding to accept liability on Mrs W's behalf. I think it's entitled to do this by the policy's terms and conditions. And so I can't say that it did anything wrong or needs to change how the claim has been recorded.

I note that AXA admitted liability on a without prejudice basis. So Mrs W is able to take this matter to court at her own expense if she is so minded.

### **My final decision**

For the reasons given above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 3 March 2026.

Phillip Berechree  
**Ombudsman**