

The complaint

Mr C complains about AXA France IARD ("AXA") and their decision to decline the claim he made on his Guaranteed Asset Protection ("GAP") insurance policy.

What happened

The claim and complaint circumstances are well known to both parties. So, I don't intend to list them chronologically in detail. But to summarise, Mr C held a GAP insurance policy, underwritten by AXA, when he was involved in a road traffic accident that led to his car being written off.

So, he contacted AXA to make a claim on his GAP insurance policy for the difference in value between the total loss settlement he received from his insurer, who I'll refer to as "L", and the amount he purchased his car for.

AXA initially declined the claim and Mr C raised a previous complaint with our service, where AXA were directed to reassess it. This direction was accepted by both parties. But having done so, AXA maintained the claim decline, this time setting out their belief that Mr C's claim didn't meet the definition of a total loss, as he had retained salvage of his car. Mr C complained about this, and AXA issued a complaint response, setting out why they felt they had acted fairly and reasonably. So, they didn't offer to do anything more. Mr C remained unhappy with this response, so he referred his complaint to us.

Our investigator looked into the complaint and upheld it. Both parties have had sight of this outcome, so I won't be recounting it in detail. But to summarise, our investigator set out why they thought AXA had acted unfairly, and unreasonably, when declining the claim for the reason they did.

They explained why they didn't feel AXA were impacted by Mr C's decision to retain the salvage of his car. So, they directed AXA to reassess the claim against the remaining terms of the policy, disregarding the term relating to the total loss definition. And, if this led to the claim being successful, pay 8% simple interest on this amount from the initial decline to the date of payment. They also recommended AXA pay Mr C £100 compensation to recognise the inconvenience he'd been caused.

Mr C accepted this recommendation. But AXA didn't, providing a detailed explanation setting out why, with accompanying evidence. This included, and is not limited to, their continued belief that Mr C's claim failed to meet the definition of total loss, as he had chosen to retain the car salvage.

So, they didn't agree they had failed to meet their obligations under the relevant rules and regulations. They also explained why they thought Mr C had benefited from this, considering his ability to arrange the required repairs for a lesser amount due to his profession, meaning he was left with a car worth more than the salvage deduction applied by L.

Our investigators view remained unchanged and AXA continued to disagree. So, the complaint was passed to me for a decision. I issued a provisional decision on 4 December

2025, where I set out my intention to uphold the complaint for broadly the same reasons as the investigator. But I explained why my intended directions differed. Within that 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. Having done so, it's my intention to uphold the complaint, for broadly the same reasons as the investigator. I've focused my comments on what I think is relevant. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

Before I explain why I've reached my intended decision, I want to set out clearly what I've considered, and how. I note our service considered a previous complaint brought to us by Mr C about AXA, which focused on their original reasoning to decline the claim. Our service provided an outcome to this complaint, with recommended directions, that was accepted by both parties. So, our service has already investigated and answered this complaint and because of this, any issues addressed within it won't be considered, or commented on, within this decision.

Instead, my decision focuses solely on AXA's decision to decline Mr C's claim a second time, following their reassessment, and their reasoning for this.

I note AXA have declined the claim as they don't believe the circumstances of the claim meet the policy definition of a total loss. I note the policy defines a "total loss" as "when a claim has been made under the motor insurance policy and the claim has been settled, with the vehicle salvage forfeited and a total loss payment made in full and final settlement".

In this situation, Mr C did receive a total loss payment from his insurer, L. But I note this payment included a salvage deduction, as Mr C opted to retain his car. And this is why AXA feels the claim doesn't meet the definition as the vehicle salvage wasn't forfeited.

Under a strict application of the policy terms and conditions, I can understand why AXA would take this stance, as I'm satisfied the definition of what constitutes a total loss is made reasonably clear.

The policy terms and conditions also make it clear that the policy itself is designed to pay for the financial shortfall between the amount Mr C received from L, and the amount he originally paid for the vehicle up to the claim limit shown, in the event of a total loss.

But crucially, as well as considering whether AXA acted within the policy terms and conditions when taking the action they did, I must also be satisfied they were fair and reasonable to do so. And I'm not persuaded they were in this situation, and I'll explain why.

The settlement paid to Mr C by L makes it clear that they valued Mr C's car at £26,170, with this amount being based on the agreement the car was a total loss. And, that this is ultimately the financial benefit Mr C received, as he received a settlement payment less the salvage valuation applied to his car, which he chose to retain.

For L to make this payment, I'm satisfied they were acting as though they had the controlling interest in the car at that time. It appears rather than undertake the administrative task of buying Mr C's car to sell it him back, they instead chose to deduct this salvage amount, and I'm not satisfied this was the fault of Mr C, or that is impacted the situation AXA found themselves in when the claim was presented to them.

So, I'm not satisfied that Mr C choosing to retain the car, rather than forfeiting the salvage, had a detrimental impact to AXA as in either situation, Mr C ultimately received a financial benefit of £26,170. And because of this, I'm persuaded that AXA have acted unfairly, and unreasonably, when declining Mr C's claim for this reason.

I note AXA are unlikely to agree with this stance. And I want to reassure them I've considered all the comments they presented, especially in response to our investigators initial view. But I must be clear again this decision hasn't been impacted by the circumstances and reasoning they led to the first claim decline that our service has already considered.

And I'm also not satisfied the actions Mr C took after retaining the car, such as arranging for repairs, and how this then impacted the car value, has any meaningful impact on the claim he made to them. Whether or not Mr C completed repairs that increased the car value, the claim is limited to Mr C being provided with the difference between the total loss amount and the amount he purchased the car for initially, when it was deemed a total loss. So, I've then turned to what I intend to direct AXA to do to put things right.

Putting things right

When deciding what AXA should do to put things right, any award or direction I make is intended to place Mr C back in the position he would have been in, had AXA acted fairly in the first place.

In this situation, had AXA acted fairly, I'm satisfied they wouldn't have relied on the definition and reasoning they have on this occasion to decline the claim for a second time. And I've seen no information to suggest that AXA would have declined the claim for another reason other than this, considering service has already ruled on the first decline.

Because of this, I'm satisfied that had AXA acted fairly, they would have accepted the claim and settled it up to the policy claim limit. So, this is what I intend to direct AXA to do. I recognise this differs from the view of our investigator, who recommended AXA be given another opportunity to reassess the claim.

But I'm not satisfied this is appropriate here, considering they have already been provided with two opportunities, and it's been more than a year since the original claim was made to them. So, this is what I intend to direct AXA to do.

And to recognise the length of time Mr C has been without access to the funds he would have received had AXA processed his claim as I would have expected, I intend to direct them to pay 8% on the settlement amount, from the date of the original claim decline to the date of payment.

I note our investigator also recommended AXA pay £100 compensation to Mr C to recognise the inconvenience and emotional impact he's been caused by the second decline. And having considered this recommendation, I'm satisfied it's a fair one that falls in line with services approach and what I would have directed, had it not already been put forward.

I'm satisfied it fairly recognises the additional inconvenience caused to Mr C by needing to engage with AXA a second time to dispute the decline of his claim, and the cumulative impact this created considering this had happened once before and that this ultimately led to further delays in his claim being processed fairly and appropriately. So, this is a payment I also intend to direct."

Responses

Both parties responded to the provisional decision and accepted the intended directions. But AXA did seek clarity on my finding, and its reasoning.

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.

Having done so, I see no reason to change my original conclusions. So, I'm upholding Mr C's complaint for all the reasons detailed within my provisional decision which set out why I'm satisfied AXA acted unfairly.

But to be clear, considering AXA's query and for clarity, my decision is that AXA acted unfairly when declining the second claim for the reasons that they did, considering the individual circumstances of the complaint as this is all our service can consider. This decision regarding the decline itself wasn't made on the basis it was a subsequent claim or decline.

Putting things right

As set out within my provisional decision, I'm now directing AXA to accept and settle Mr C's claim, up to the policy limits, to place him back in the position he would have been in had AXA acted fairly in the first place. And I'm also directing them to pay 8% on the settlement amount from the date of the initial claim to the date of payment, to recognise the time Mr C has been without access to these funds.

I'm also directing AXA to pay Mr C £100 compensation, to recognise the inconvenience Mr C has been caused needing to continue to engage with AXA, and the cumulative impact this created considering there were further delays in his claim being processed fairly and appropriately.

My final decision

For the reasons outlined above, I uphold Mr C's complaint about AXA France IARD and I direct them to take the following action:

- Accept and settle Mr C's claim, up to the policy limits;
- Pay 8% simple interest on this settlement amount from the date of the initial claim to the date of payment; and
- Pay Mr C an additional compensatory payment of £100.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 19 January 2026.

Josh Haskey
Ombudsman