



## **complaint**

Ms B has complained that AXA Insurance UK Plc cancelled her policy as it discovered during its investigations following her accident that her car has previously been a category D total loss and consequently was not a car for which AXA would provide cover. Whilst AXA conceded Ms B was innocent of any non-disclosure and it dealt with the claim accordingly, it then cancelled her policy.

## **background**

Ms B purchased a used car and was unaware it had previously declared as a Category D total loss. She obtained insurance through the AXA direct website.

Ms B was then involved in an accident with a truck where it clipped the side of her and did not stop. She then made a claim on her insurance for the repair of her car. During the claims process AXA conducted an investigation and discovered the car's previous Category status which is an issue for which AXA does not provide any cover.

AXA agreed to settle Ms B's claim, but informed her that her policy would then be cancelled afterwards. AXA then told Ms B that she could sell her car and arrange to place a different car on her policy instead and allowed a period of a month to do this. Unfortunately her car was being repaired for most of this month. Therefore AXA agreed to extend the time she was intending to replace her car, but also told her that she would not be covered if she was involved in a further accident in the Category D car.

AXA did not hear back from Ms B as to what she intended to do and therefore it cancelled her policy and asked her to pay the remaining premium of £702, given it had dealt with her claim.

Ms B did not pay this amount and complained about how AXA handled the issue to include her claim as she did not believe it did enough to find the driver of the truck and she has lost two years no claims discount (NCD). She wished for her remaining premium to be waived.

The adjudicator investigated Ms B's complaint and was of the view that the complaint should be upheld and that AXA should merely charge her for the time she was on risk. In addition it should pay her £100 compensation for the distress and inconvenience it caused her. It should also remove any references that her policy had been cancelled from any databases.

AXA disagreed and wished for the case to be referred to an ombudsman.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

I find that I agree with the adjudicator's view that AXA's exclusion to refuse to cover cars that had previously been a Category D total loss was significant and unusual exclusions which was not appropriately highlighted in the policy documentation. I further agree that listing a series of assumptions (to include whether or not the car to be insured was a Category D total loss previously) and then requesting the applicant to confirm if these assumptions were

correct, is not actually asking a clear question of an applicant. Furthermore as these assumptions are only listed after a price has been quoted, it then gives the impression that these assumptions are not all that important to the insurer. However I do acknowledge that as Ms B was unaware her car was previously a Category D total loss, it would have been probable that even if proper questions had been asked of her, she would not have been able to disclose her car's status in any event.

I also find that as AXA had provided cover for Ms B's accident, it was not then fair or reasonable for it to discontinue the cover for the remainder of the policy year as when she initially sought to provide insurance for her car, neither she nor AXA were aware the car has previously been a Category D total loss. I am of the view that had AXA's website taken a note of her registration number at the time of her application that then it would have been evident that Ms B's car had been previously registered as a Category D total loss and it could have refused to insure her car at that time. To merely check the status of the car at the time of claim instead of at the time of application is not fair and reasonable as AXA are aware.

Nevertheless, I acknowledge that AXA did deal with her claim, albeit that it did not pursue the third party. I understand that as the CCTV did not capture the accident it was therefore very difficult for AXA to find the relevant third party or his insurers. Therefore I find that it is appropriate that this claim on Ms B's policy should be classed as a fault claim as AXA would have never been able to recoup its expenditure in the dealing with Ms B's car repairs. This does then have a consequent effect on decreasing Ms B's NCD.

Given AXA could have been aware at the time of Ms B's application for car insurance that it would not cover her car given its previous Category D total loss status, I agree with the with the adjudicator that it is then neither fair or reasonable for AXA to have decide to cancel her policy, despite dealing with her claim. Whilst the fact that AXA did deal with Ms B's claim and incurred costs, which would normally ensure the full premium should then be payable, I find that in the particular circumstances of this complaint, it is more reasonable for AXA to simply require Ms B to pay for her time on risk and AXA should now calculate that accordingly.

I understand that the premium Ms B paid for her new policy which she obtained following AXA's cancellation, was lower than the premium charged for the policy year by AXA and therefore Ms B has suffered no loss for this aspect.

I further agree that how AXA have dealt with Ms B has caused her some distress and inconvenience and I agree that the appropriate sum of compensation for this distress and inconvenience is £100.

### **my final decision**

For the reasons above, it is my final decision that I uphold this complaint.

I order AXA Insurance UK Plc to do the following:

- Ensure all databases record that AXA cancelled Ms B's policy in error.
- Calculate Ms B's cost of time of risk and should Ms B need to pay anything further, it should only request that amount from Ms B rather than the remainder of the

outstanding premium of £702.

- Pay Ms B the sum of £100 for the distress and inconvenience it caused her in the handling of this matter.

I make no other award against AXA.

Rona Doyle  
**ombudsman**