

complaint

Mr H has complained about the way AXA Insurance UK Plc dealt with the other driver's claim following an accident under his motor policy. He also complained it didn't automatically renew his policy without informing him.

background

Mr H usually dealt with a broker acting for AXA but for ease I've only referred to AXA in this decision. Mr H had a car accident. He says he only found out the other driver made a claim on his policy when he was stopped for driving without insurance because his policy didn't automatically renew. AXA offered to settle the other driver's claim on the basis that both drivers were equally at fault. Mr H complained about that decision and that AXA didn't ask him about the accident.

In the meantime, Mr H's insurance was due for renewal. AXA decided it didn't want to renew Mr H's policy and emailed him to tell him this. Mr H said that he didn't receive the email and thought his policy had renewed automatically, as he'd set it up to do. He said he didn't find out he was driving without insurance until he was stopped by the police. He received a fine and penalty points, which he thinks AXA should compensate him for.

The adjudicator didn't think AXA had done anything wrong. Mr H didn't agree so his complaint's been passed to me to decide.

my findings

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

It seems that Mr H ran into problems because he wasn't receiving AXA's emails. Mr H said that at the time he took out the policy he'd told AXA he only wanted it to contact him by phone or post and not by email. But he took his policy out online and there's no way of making that request in the application process. So I don't think that AXA knew that Mr H didn't want it to contact him by email.

I've seen that AXA sent Mr H several emails asking how the accident happened. The day it sent the first email, 31 January 2014, Mr H phoned to say that he'd changed address but AXA's legal team didn't update that part of his file with his new address, which it should have done.

AXA continued to send Mr H emails about the accident. It also sent him texts to say that it had sent him emails asking him to give the emails his immediate attention. But Mr H didn't respond because he said, although he saw the texts, he hadn't received the emails. AXA also telephoned him once but Mr H was busy and didn't have time to talk.

So, as Mr H didn't contact AXA, it dealt with the other driver's claim without having any further information from him. After Mr H learned of this he phoned AXA. It told him it had emailed him and copied some of its emails and sent those by post. But it had sent those letters to his old address. While it should've updated Mr H's address and posted letters to his new address, it clearly made a number of efforts to contact him by email and text. I think those were reasonable attempts to ask Mr H for his version of how the accident happened and I don't think it was AXA's fault Mr H didn't see those emails or respond to its texts.

Also, like almost all motor insurance policies, Mr H's policy gives AXA the right to take over the defence or settlement of any claim as it sees fit. While it certainly would've been helpful for it to have more information from Mr H about the circumstances of the accident, the other driver's insurer provided an independent witness statement which said he thought Mr H was at fault. In those circumstances, insurers will often find the driver named by the independent witness as being solely at fault. So it seemed the best that AXA could achieve would be to split the fault for causing the accident on a 50/50 basis between Mr H and the other driver. This is what it did. So even though it would've been better if AXA had also posted its requests for information to Mr H at the right address I don't think the outcome would've been any different if he'd received those letters and had replied to them. That's because I think it's most likely that AXA would've settled the claim on a 50/50 basis anyway. So I don't think he's suffered any loss because he didn't receive AXA's letters by post.

As regards that Mr H said he didn't know AXA wasn't prepared to renew his insurance, he said that he'd previously told AXA during specific phone conversations he only wanted it to deal with him by phone and not by email. I've listened to the available recordings of Mr H's phone calls with AXA but haven't found evidence to support his memory of events.

In one of the calls that Mr H thinks is important when he told AXA of his change of address, he doesn't mention he only wanted to be contacted by phone. So that doesn't support his account.

There's been one phone recording AXA couldn't find when Mr H told it he'd changed his car. AXA can't find the recording because Mr H probably made the call from his old workplace. He doesn't work there anymore and can't remember what number he called from. Without that number AXA can't locate the call.

While it's disappointing that I can't listen to that call, I think it's unlikely that Mr H did tell AXA that he only wanted it to contact him by phone during that conversation. That's because he'd had policies with AXA since July 2012 and hadn't said before that he only wanted to be contacted by phone. So I'm not sure why that would've changed in April 2014.

Also, AXA's policy says that it's designed to be managed online and that AXA may charge an administration fee for doing things by telephone. So if Mr H did tell AXA he only wanted to be dealt with by telephone I'd expect to see some reference to that request. The fact that AXA hasn't any record of it or didn't charge him more shows me that it's most likely that Mr H didn't make the request.

Mr H's confirmed that the email AXA sent, telling him it wouldn't renew his policy went to his junk/spam email box and so he didn't see it at the time. I don't think that's AXA's fault. On the same day, it sent the email AXA posted a letter to Mr H telling him that it wouldn't renew his insurance. While Mr H didn't receive the letter, AXA wrote to him at the correct address. I don't think it's AXA's fault that Mr H didn't receive that letter. Mr H's suggested that AXA didn't post the letter to him and only said it did, in response to his complaint. But, I've got no reason to believe that AXA would lie about sending it and also Mr H never received any insurance certificate for that year either. It follows that I don't think it's AXA's fault Mr H was later prosecuted for driving without insurance or that it caused the impact of that on his other insurance policies.

my final decision

For the reasons discussed above it's my final decision that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 8 February 2016.

Joe Scott
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