

complaint

Mr A complains that AXA Insurance UK Plc paid a third party claim made under his motor insurance policy despite him saying he wasn't involved in the incident. He also says that AXA won't release his No Claims Discount (NCD).

background

Mr A complained immediately after he discovered that a claim was being made against him. He requested hard evidence to prove he was at the scene of the incident and said that legally AXA should have defended his claim.

AXA said that it received a claim from a third party. The third party provided a detailed description of Mr A, his registration number, a photo of his car, his correct mobile phone number and his insurance details. AXA said that this information meant it wasn't in a position to defend against the claim. AXA's legal team confirmed this.

Our adjudicator didn't recommend that the complaint should be upheld. He thought that AXA had conducted a reasonable investigation before settling the claim. Mr A didn't provide any independent evidence to show that AXA should have done more to defend the claim or that the evidence AXA had considered was insufficient. Mr A wasn't able to provide persuasive evidence that he wasn't in the area when the alleged incident occurred.

Mr A replied that AXA hadn't done enough. He insisted that his opinion and knowledge should be enough for our service to accept that AXA hadn't acted correctly.

my findings

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

I can see that Mr A is adamant that he wasn't involved in the alleged incident. The adjudicator has already explained that it isn't our role to decide who was responsible for causing an incident. 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?

Further, I think that AXA is entitled under the terms and conditions of its policy with Mr A to take over, defend, or settle a claim as it sees fit. In other words, if he wants AXA to provide him with insurance, Mr A has to follow its advice in connection with the settlement of a claim. This is whether he agrees with the outcome or not. This is a common term in motor insurance policies and I don't 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. In this case I can see from the records that the third party solicitor reported the claim to AXA. It was able to provide Mr A's car details, photographs of Mr A's car, his mobile phone number, a description of him, and his insurance details. The damage to the third party car was consistent with its statement. I can see that AXA consulted its own legal team. It thought that it would be unlikely to be able to successfully defend the case if it went to court. It therefore decided to settle, which I think it's entitled to do.

Mr A says that there's no concrete evidence to show that he was involved in the accident. He thinks it's a fraudulent claim. But I can see that AXA considered this. It asked its specialist team for advice. It didn't think there was enough evidence to show that the claim was fraudulent.

Mr A was invited to provide evidence to counter the third party claim. Unfortunately, he hasn't been able to show where he was at the time of the alleged accident. He hasn't agreed to take his car to AXA's approved repairer to confirm that there are no recent repairs. Therefore, AXA hasn't been able to show that Mr A wasn't involved in the accident.

Mr A says that his word should be enough. But AXA is entitled to take a view of how this may be received if the case went to court. I can see that it looked at how it could defend the claim. I think it reasonably considered the evidence available. I don't think that its decision to settle the claim was unreasonable.

Mr A complained that AXA wouldn't release his NCD. I think its common industry practice to record a claim as open whilst it is being investigated. When it was settled, AXA recorded the fault claim against Mr A. This will then have an effect on Mr A's NCD record. I don't think this is unreasonable.

my final decision

For the reasons I've discussed, it is my final decision that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 21 September 2015.

Phillip Berechree
ombudsman