

## **complaint**

Mr A complained that AXA Insurance UK Plc wouldn't pay his claim under his motor insurance policy when his car was stolen.

## **background**

When Mr A's car was stolen from outside his home, he made a claim under his policy. But he was unable to give AXA the key which was last used to drive his car. AXA declined his claim because they decided that the most likely cause of Mr A's car's theft was that he had left his key in his car.

Mr A complained to AXA. He wanted them to pay his claim. He also complained that AXA had wrongly charged him an additional premium in respect of a claim in 2013.

AXA didn't change their position, so Mr A bought his complaint to us.

The adjudicator who assessed Mr A's complaint didn't recommend that it should be upheld. She thought that it was fair for AXA to charge the additional premium. She also thought that, based on the evidence available to AXA, it was reasonable for them to decline his claim.

Mr A remained dissatisfied and so his case has been passed to me to decide.

## **my findings**

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

I've looked at Mrs A's policy which says on page 9:

*"What is not covered*

*(m) Loss or damage to Your car arising from theft when the ignition keys are left unattended in or on Your car"*

I think that this is clear, and it isn't an unusual exclusion. Mr A says that he was aware of it. AXA decided that it was more likely than not that Mr A's key was left in his car and was used to steal his car. The question is whether it was reasonable for AXA to decide this.

Mr A said that he drove his car home in the early hours of the morning and when he woke up later that morning he realised that it had gone. He said that he went looking for his car in his local area and then went to the police, but they did not let him report the theft then. He did report it to AXA. It was a few weeks later, at AXA's suggestion, that he reported it to the police and obtained a crime reference number.

AXA asked Mr A to send them all his car keys. Mr A told them that he got two keys when he bought his car, but that he could only find one key now. He sent AXA that key.

AXA took Mr A's key to his car's manufacturer. This was in about March 2015. The manufacturer was able to determine from that key what mileage Mr A's car had done, and it was 98,749. But AXA saw that at Mr A's car's most recent MOT in July 2014, about eight months earlier, his car's mileage had been the much higher 113,413. This suggested that the key that Mr A sent AXA hadn't been used to drive his car for some time, and that it wasn't the key which was last used to drive his car.

AXA therefore asked Mr A to send them the key that was last used with his car, or to explain to them why he didn't have that key. They also asked their enquiry agent to interview Mr A.

Mr A said that he didn't know where his other key was. He also said in his statement to AXA's enquiry agent as follows:

*"I locked the car using the remote key fob. The key I used for the vehicle was the same one I always used and I put the key in my trouser pocket...I probably left my trousers on the chair..."*

He further explained in his statement that:

*"...I...was not asked for the keys until a couple of weeks after the theft and I think the main key may have been washed away in the washing machine or maybe I moved things off the chair and thrown things away and the key was amongst it without me knowing."*

He also told AXA that he couldn't find his key because he was distressed and depressed about not finding his car.

Mr A says that he feels that AXA have treated him like a thief, although he's consistently said to AXA that he could only find one of his two keys. He thinks that AXA have no proof that he left his key in his car.

I can see that Mr A is upset that he's lost his car. But I think that AXA are entitled to investigate his claim and they haven't been unreasonable in doing so. I also accept that Mr A has been consistent in saying that he did have two keys but lost one. But I don't think that makes any difference. The important point is that Mr A can't find the key last used to drive his car.

Mr A's car had a security system, an alarm and an immobiliser, which was working at the time of the theft. Mr A said that there was no glass or debris at the place from which his car was stolen. This would suggest that his car was stolen using a key.

AXA have shown that the key he sent them was not the key last used to drive his car. This means that the key which was last used to drive his car must be the one which is lost. Mr A says he had that key just before his car was stolen. AXA didn't think that his explanations for its loss were plausible.

I'm satisfied that AXA made a full investigation of the circumstances surrounding the theft. They sent an enquiry agent to take a full statement from Mr A. They asked him for his account of events and properly considered it. But given the evidence available to AXA, I think that it was reasonable for AXA to consider it more likely than not that Mr A left his key in the car and that's how his car was stolen. So I don't think AXA have done anything wrong.

Mr A also felt that AXA had unfairly increased his premium. But Mr A acknowledges that there was a claim against him in 2013, and AXA have been able to show that he didn't disclose this claim when he bought his policy. They've also shown that, if Mr A had disclosed that claim, they'd have charged him about £66 more. So I think that they're entitled to charge him now for that.

### **my final decision**

For the reasons I've discussed above it's my final decision that I don't uphold this complaint and I make no award against AXA.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr A to accept or reject my decision before 9 March 2016.

Rosslyn Scott  
**ombudsman**