

## **complaint**

Mr S has complained that AXA Insurance UK Plc's service to him was poor when he made a claim under his car insurance policy.

## **background**

Mr S was involved in an incident with a motorbike in January 2016. He complained to his insurer, AXA about the following:

- The approved repairer caused further damage to his car and his parcel shelf was missing when his car was returned to him.
- He asked to use the legal protection part of his policy but AXA didn't reply.
- AXA failed to return his excess to him.
- AXA has delayed settling his claim and provided him with poor service.

Mr S wants AXA to pay his own solicitor's fees – who he instructed separately to recover his uninsured losses.

The adjudicator said the approved repairer showed the parcel shelf was missing before it received Mr S's car and the damage to it existed before. AXA had given Mr S the option to use the legal protection part of his policy twice before he decided to instruct private solicitors. So it wasn't reasonable to expect AXA to pay legal fees because Mr S didn't take up the cover he already had.

Because it isn't able to recover its costs of the claim from the third party, it isn't able to recover Mr S's excess. But it understands Mr S's own solicitor is looking to recover this from the Motor Insurance Bureau (MIB) on his behalf. There were times when Mr S called AXA for updates very regularly when there was none to give. But there were also times when AXA provided a poor service. AXA offered £200 to Mr S for its service failings. The adjudicator felt this was a reasonable sum to resolve his complaint.

Mr S didn't agree. So the matter has 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.

Mr S has asked us to consider his complaint about repairs to the front and rear wheels of his car. This has been investigated separately and that complaint is now closed. So it doesn't form part of my decision.

Mr S has also said that he's received threatening letters from AXA relating to repairs. The adjudicator asked Mr S to clarify what he meant. But Mr S hasn't replied or provided a copy of the letters. So this doesn't form part of my decision either.

I've looked at the complaints listed below.

*The approved repairer caused further damage to Mr S's car*

The repairer completed a check sheet when it received Mr S's car for repair. This shows the parcel shelf was missing and there was existing damage to his car which wasn't incident related. So I haven't seen anything to show the approved repair caused further damage.

*AXA didn't help Mr S use the legal protection cover under his policy*

In April 2016 Mr S asked to use the legal protection part of his policy. This followed his dispute with AXA about the repairs carried out to his car by the approved repairer.

AXA told Mr S he did have legal protection cover and he could use it to recover any uninsured losses, such as personal injury. AXA said Mr S wouldn't be able to use it to recover the repair costs for damage he claimed the approved repairer caused.

Mr S didn't make a claim under the legal protection part of his policy. In September 2016 AXA told Mr S it had instructed solicitors to recover its claim costs. It told Mr S if he wanted to claim for any uninsured losses to let AXA know. It would instruct separate solicitors to act for Mr S.

But Mr S didn't tell AXA he intended to claim. In November 2016 AXA received a letter from a private solicitor dealing with Mr S's uninsured losses.

Mr S wants AXA to pay his legal fees because it failed to allow him to claim under his legal protection cover. But from what I've seen, Mr S was able to do this. So I don't think it's fair to ask AXA to pay for Mr S's solicitor as these fees aren't covered under the terms of his policy.

*AXA failed to recover Mr S's excess*

As Mr S made a claim under his policy, the excess is payable. This is a standard term in all insurance policies. This is why an excess usually falls under the scope of being an uninsured loss. And as such, it isn't for AXA to recover on Mr S's behalf. But as I've explained, it was something Mr S could have claimed for using the legal protection cover under his policy.

But in this case, the police reported that the motorbike involved in the incident appeared to have a cloned number plate. The genuine registration details belonged to a different insured. This meant it was very difficult to find the third party involved in the incident to recover any losses from. So as a claim has been made under Mr S's policy – even if it wasn't Mr S's fault - this may have an affect on his future premium and any No Claims Discount entitlement.

I can understand that this is a disappointing outcome for Mr S. But this isn't something AXA had any control over. So I don't think AXA is responsible for Mr S not being able to recover his excess.

*AXA delayed settling his claim and provided him with poor service*

When a claim isn't straight forward – as is the case here – it isn't always possible for an insurer to settle the claim quickly as further investigation is needed. This takes time - and so it's inevitable that the outcome might not be clear for several months.

AXA's handling of Mr S's claim wasn't as good as it could have been. AXA was limited by the delayed replies it received from the third party it was originally in contact with. And at times Mr S chased for information within days when AXA had no update to give. But on balance I think it failed to provide regular updates to Mr S on key stages of the claim. Understandably this caused Mr S some frustration. For its poor service I think AXA's offer of £200 to Mr S is fair and reasonable.

### **my final decision**

For the reasons I've given above, I uphold Mr S's complaint in part. I require AXA UK Insurance Plc to pay Mr S £200 compensation for the trouble and upset its poor service caused.

AXA UK Insurance Plc must pay the compensation within 28 days of the date on which we tell it Mr S accepts my final decision. If it pays later than this it must also pay interest on the compensation from the date of my final decision to the date of payment at a simple rate of 8% a year.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 24 August 2017.

Geraldine Newbold  
**ombudsman**