

The complaint

Miss Q complains about the service AXA Insurance UK Plc trading as Swiftcover ("AXA") gave her and that it rejected a claim under her motor insurance policy. When I mention AXA I also mean its suppliers.

What happened

Miss Q had a motor insurance policy with AXA covering her car.

Her car was substantially damaged when being driven by a family member of Miss Q. This family member wasn't insured to drive her car under AXA's policy.

AXA rejected the claim as the family member wasn't covered.

The car was then released by the police and AXA's claims handler arranged to have the car recovered and it was valued by AXA's supplier. AXA paid £402.96 to Miss Q, which was the salvage value of the car after deduction of Miss Q's excess. It also transferred ownership of the car to one of its suppliers which acts as a vehicle breaker.

It told her it was going to settle her claim for the damage to her car, but this was an error.

Miss Q remained unhappy and brought her complaint to this service. She asks that AXA pay her claim.

Our investigator looked into her complaint and thought it would be upheld in part. She thought AXA didn't need to pay Miss Q's claim for damage, but it should pay Miss Q £100 for its poor service during the claim. She also said it should either return the damaged car to her, or make a payment in respect of its salvage value.

AXA agreed with the view. But it didn't clarify what it would do with the damaged car.

Because it didn't respond, this complaint has been passed to me for a final decision.

I issued a provisional decision to allow both parties to consider the matter further:

The accident

I can see from the file of evidence I have that Miss Q's car was damaged in an incident while being driven by her family member. I can also see that this family member wasn't insured under the policy she had with AXA.

I understand Miss Q's frustration as she was told by AXA that her claim for damage to her car was going to be covered. It offered the payment on a 'without prejudice' basis. What this means is that AXA are prepared to pay, but the payment is subject to further information coming to light that means it may have to ask for its money back, or the amount to be adjusted. This can happen in insurance payments as claims are investigated further. In this case, AXA shouldn't have said it would pay, as the claim had already been repudiated.

For Miss Q, what that means is AXA doesn't need to settle her claim for damage to her car under the terms of its policy as the driver wasn't covered. So I'm not proposing to uphold this aspect of Miss Q's complaint.

But I don't think it was good service of AXA to say it would pay the claim and I'll talk about this later.

The salvage

It's my understanding that AXA said Miss Q's car was damaged beyond economical repair and it was a category B write off. What that means is the car can only be used for parts and can never be driven again. It can only be transferred to an appropriately licenced company for those purposes.

It's also my understanding that Miss Q wouldn't be able to take her car back because of these requirements, so it seems to me that the fair thing to do is that AXA arrange for the car to be disposed of, and then make a payment to Miss Q for the amount it receives as salvage.

It's important that I say Miss Q apparently had a finance arrangement relating to the car. So I'd reasonably expect AXA to make any payment for the salvage to the finance company if that's appropriate.

It's my understanding that AXA has already paid Miss Q £402.96 for this salvage value, after deduction of her £200 excess. Because this payment wasn't under the terms of her policy with AXA, it shouldn't have deducted the excess.

So it needs to pay her £200 in respect of this deduction it shouldn't have made. Interest at 8% simple should be added from the date the initial £402.96 was made, to the date this payment is made.

Claims service

I can see from AXA's file that it says: "Claims handler made a major mistake by instructing [supplier] when [Miss Q] doesn't qualify for us to indemnify".

When our investigator sent her view, AXA agreed with the £100 distress and inconvenience she awarded but then it didn't respond further.

I've looked at Miss Q's evidence. It's clear to me that she's found the entire process very distressing and she's been dealing with significant personal issues during the same time.

Part of that distress is likely due to her car being written off and finding out that she wasn't going to be covered by AXA due to the driver not being covered, but I also think a considerable amount of distress has resulted from AXA's failure to deal with her claim effectively and communicate with her.

I can also see Miss Q has had a significant amount of inconvenience due to being without a car for an extended period, but I can't reasonably say that's AXA's fault as it was Miss Q's family member who crashed her car. AXA didn't cover that person, so it's not caused most of her inconvenience.

Taking everything into account, I've considered the impact of AXA's initial poor claims handling and the ongoing lack of responses and thought about an appropriate level of compensation. I've looked at this service's recommendations and I think £300 is the right

amount to award Miss Q.

Responses to my provisional decision

AXA accepted my provisional decision. Miss Q didn't accept it. She says AXA told her that her claim was going to be paid and that its procedures and communication with her was poor throughout the process of her claim and the complaint.

What I've decided – and why

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

I read Miss Q's response to my provisional decision carefully and I understand she's taken legal advice about the situation she is in. If Miss Q doesn't accept my decision then she's free to take legal action against AXA and this is her right.

I explained in my provisional decision that AXA made mistakes during her claim, and those mistakes led to the distress that I've decided she should receive compensation for.

But I can't agree with her that AXA need to pay her claim. Her car wasn't insured when it was crashed. So it wouldn't be fair that I ask AXA to pay her claim.

I've said that I think AXA need to repay her the amount of her policy excess it deducted from the salvage figure, as the damage wasn't covered under her insurance policy and shouldn't have been deducted, and this will stand.

Because AXA has accepted my provisional decision and Miss Q hasn't provided any further evidence, my final decision and reasoning remains the same as my provisional decision.

My final decision

It's my final decision that I uphold this complaint in part. I direct AXA Insurance UK Plc trading as Swiftcover to:

- Pay Miss Q the £200 it deducted from her salvage payment. Interest at 8% simple should be added to this from the date AXA made the initial payment to her, to the date it makes this payment.
- Pay Miss Q £300 for her distress caused by its poor service.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss Q to accept or reject my decision before 2 January 2024.

Richard Sowden
Ombudsman