

The complaint

Mr C complains about how AXA Insurance UK Plc has handled his travel insurance claim. My references to AXA include its claim handling agents.

What happened

Mr C had a standard annual multi-trip travel insurance policy insured by AXA. He bought the policy on 27 December 2021. The policy cover started on 27 December 2021 and ended on 26 December 2022.

On 27 December 2021 Mr C tested positive for Covid-19 and had to cancel a five week trip he was due to start that day. He claimed for the costs of the cancelled trip.

AXA asked Mr C for various documents in relation to his claim. In September and October 2022 AXA's validation team emailed and phoned Mr C asking for a telephone interview with him. AXA received no response so in October 2022 it wrote to Mr C saying it needed to have a telephone interview with him as it had concerns surrounding when the policy was taken out and its proximity to the illness he says caused him to cancel his trip. AXA also told Mr C that if it wasn't able to speak with him about the matter it wasn't able to make any claim settlement to him.

Mr C says he became aware of AXA's request to interview him only in January 2023 when he complained to AXA that it hadn't settled his claim.

AXA sent a final response letter to Mr C on 11 January 2023. AXA accepted it had delayed in assessing the claim from March to May 2022 for which it apologised and offered £50 compensation for Mr C's distress and inconvenience due to the delay. AXA detailed its attempts to contact Mr C to arrange an interview and why it wanted an interview. AXA said it hadn't declined the claim but it couldn't progress the claim if Mr C didn't contact its validation team as requested.

Mr C complained to us. In brief he said:

- Under the policy terms AXA isn't entitled to require him to attend an interview as a condition of deciding his claim. And AXA shouldn't rely on the absence of an interview to decline the claim or to put the claim on hold indefinitely.
- He didn't have time for 'the stress and intimidation of an interview', where he said he was likely to be subjected to 'bullying and other forms of hostile questioning'.
- AXA appears to allege that he might have already tested positive for Covid-19 before he took out the policy, which wasn't correct.
- AXA's delay in processing the claim before asking him to attend an interview was 'prejudicial' to him. The delay meant his and any witnesses' recollections may not be correct. And documentary evidence which might have been available at the time of the claim may no longer be available.

- He accepts AXA's apology for its delay and the £50 compensation offered.

Mr C wanted us to decide whether AXA's entitled to make him attend an interview before it decides his claim. He said he didn't want us to decide his claim as when AXA made a decision on the claim he would make a separate complaint if he didn't agree.

Our investigator said AXA's request to interview Mr C wasn't unfair or unreasonable and it didn't need to do anything further.

Mr C wants an ombudsman to make a final decision on his complaint. He said his complaint had been misunderstood and that while we considered fairness when making our decision the terms of the insurance contract were also relevant. By our investigator saying AXA didn't need to take any action, if he didn't attend a formal interview AXA wouldn't make a decision on his claim that he could complain about. He hadn't finally decided whether he would attend an interview with AXA. But he wanted us to make a decision that:

- AXA isn't entitled to require him to attend an interview as a condition of settlement.
- If he doesn't attend a formal interview AXA should make a settlement decision on the basis of the available information, requesting any further information from him in writing.
- There should be no 'adverse inference' against him if he decides not to attend an interview and/or because he'd complained us.
- If AXA declined his claim he could make a separate complaint to us about its decision.
- He be given permission to record the interview (if attended).

Mr C also said AXA hadn't yet paid him the £50 compensation it offered. And he detailed why he thought he'd already shown AXA that he had valid claim, which he said was for context only as he wasn't asking us to decide his claim in this complaint.

AXA said:

- It wasn't its intention to 'bully' or 'interrogate' anyone. In the circumstances of the claim it could request an interview but the interview wouldn't be the only evidence it used to decide the claim and it would take into account all the evidence provided.
- As Mr C confirmed his acceptance of its compensation offer it would pay him the £50 compensation.

Before I made my decision Mr C confirmed he's received the £50 compensation.

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've considered all the points Mr C has made but I won't address all his points in my findings. I'll focus on the reasons why I've made my decision and the key points which I think are relevant to the outcome of this complaint.

The relevant regulator's rules say that insurers must handle claims promptly and fairly and they mustn't turn down claims unreasonably.

Mr C has asked that I don't make a decision about the outcome of his claim in response to his complaint, and I'm not going to do so. My decision is about AXA's handling of his claim.

The policy documents say under the 'claims conditions' section:

'You must comply with the following conditions to have the full protection of your policy. If you do not comply we may void the policy and refuse to deal with any relevant claims or reduce the amount of any relevant claim payment'

and

'...You or anyone acting on your behalf must ... cooperate fully with us in our investigations into the circumstance of your claim'.

Mr C says AXA isn't entitled to require him to attend an interview as a condition of settlement. But AXA wants to interview Mr C as part of its investigations into the claim. The policy is clear that Mr C must cooperate fully with AXA in its investigations into his claim and if he doesn't cooperate AXA can, among other things, refuse to deal with any relevant claim. So I think AXA acted within the policy terms when it told Mr C that it couldn't progress his claim if it couldn't interview him as it requested.

I also have to consider whether AXA acted fairly and reasonably, and I think it did. Mr C set out why he thinks he's already provided AXA with enough evidence to show he has a valid claim. Part of the evidence shows that Mr C took out his policy on 27 December 2021, which is the same date he tested positive for Covid-19, which is the same date he was due to start the trip he cancelled.

In those circumstances I think AXA acted fairly and reasonably in telling Mr C that it has concerns about the timing of when his policy was taken out and in wanting to speak to him about those concerns. I can't fairly say AXA is acting unreasonably in not deciding the claim without interviewing Mr C when the policy terms are clear that if he doesn't cooperate with its investigations it may refuse to deal with any relevant claim.

It's for Mr C to decide whether or not to attend the interview. He doesn't have to attend if he doesn't want to. If Mr C chooses to not be interviewed, I can't tell AXA that it can't take his decision not to attend into account. AXA can take into account any evidence it has. I've no reason to believe that AXA would draw 'adverse inference' against Mr C for complaining to us.

Mr C says if he does agree to an interview he's concerned that with the passing of time his and any witnesses' recollections of what happened may not be correct and documentary evidence may no longer be available. That's a possibility, but I don't think AXA's delay in progressing the claim in March to May 2022 means it's unreasonable for AXA to still want to interview Mr C before it decides the claim. AXA tried to contact Mr C requesting an interview, using the email and phone contact details it had for him, in September 2022. Mr C says he's known that AXA wanted to interview him since January 2023. Also AXA says the interview won't be the only evidence it uses to decide the claim and it will take into account all the evidence provided, which is reasonable.

Mr C's provided no evidence to support that AXA will used 'bullying' and 'hostile questioning' in an interview about his claim and AXA says that's not its intention.

Although Mr C may feel stressed about having the interview, and it will take some of his time, those aren't reasons for me to say it's unreasonable for AXA to want to interview him before it progresses his claim.

If Mr C decides to attend the interview he'll need to ask AXA's permission to record the interview. I think it's likely that AXA will want to record the interview too.

If Mr C chooses to not attend the interview he may want to tell AXA and ask it to decide his claim just on the evidence it has. If AXA does make a decision about the claim, with which Mr C disagrees, then he can make a separate complaint to AXA and ultimately to us. But AXA doesn't have to agree to Mr C's request to decide the claim just on the evidence it already has. As I've said, AXA acted within the policy terms and reasonably in telling Mr C that it wouldn't progress his claim to the decision stage without an interview with him so it could discuss its concerns about the claim.

AXA accepted it delayed in progressing Mr C's claim from March to May 2022 and Mr C accepted the £50 compensation it offered for his distress and inconvenience due to the delay, which he's received.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 12 January 2024.

Nicola Sisk
Ombudsman