

The complaint

Mr B complains about AXA Insurance UK Plc and their decision to decline the claim he made on his home insurance policy after his camera equipment was stolen.

What happened

Mr B held a home insurance policy, underwritten by AXA in their role as the insurer. The policy itself was purchased and arranged through an intermediary, who I'll refer to as "H". As part of this policy, Mr B paid an additional premium to insure several items within, and away, from his home. This included his camera equipment. Unfortunately, on 3 August 2022, Mr B found this equipment was missing. And after some thought, he concluded that the equipment was most likely stolen from his vehicle overnight. So, he contacted AXA to make a claim on his policy.

In this situation, H acted as an agent of AXA during the claim process. But as H were acting on AXA's behalf, I'll refer to any actions taken, or comments made, by H as if they were made or taken by AXA.

AXA appointed a specialist claim validation company, who I'll refer to as "G", to assess the claim on their behalf. As G were acting on behalf of AXA, AXA remain ultimately responsible for the service, and decision, G reached. G considered Mr B's claim and declined it, explaining the policy terms and conditions excluded theft claims where items are stolen from an unoccupied vehicle.

Mr B was unhappy about this. And after some thought, he provided a new version of events for the theft, explaining his belief that the equipment had been stolen while he and his wife were unloading his vehicle, whilst his grandson was in the car asleep. So, Mr B didn't think the vehicle was unoccupied and he felt the claim should be reconsidered.

G considered Mr B's new version of events, but they continued to decline the claim maintaining their belief that the claim circumstances fell under the policy exclusions. Mr B was unhappy about this, so he raised a complaint.

Mr B didn't think the claim had been declined fairly by G, and so, AXA. And he explained due to his own personal circumstances, he was not able to replace the equipment. Mr B also complained about the sale of the policy and the information he was given by H some years earlier.

AXA responded to the complaint and didn't uphold it. They thought they had acted fairly when declining the claim, based on the theft circumstances and the policy exclusions. So, they didn't think they needed to do anything more regarding this aspect of the complaint. As H were responding on AXA's behalf, H also commented on the sale of the policy within this response. Mr B remained unhappy, so he referred his complaint to us.

Our investigator looked into the complaint and didn't uphold it. They explained the policy was sold by H in their role as an intermediary, and not AXA. So, as this complaint was set up about AXA regarding the claim decline, our investigator explained the mis-sale aspect of the

complaint hadn't been considered under this complaint reference. And our investigator thought the claim itself had been declined fairly by AXA, under the terms and conditions of the policy Mr B held. So, he didn't think AXA needed to do anything more.

Mr B didn't agree with this. He explained his belief that any potential theft would've occurred using deception, considering his grandson would've been in the car supervised either by himself or his wife. So, he maintained his belief that the claim had been declined unfairly. As Mr B didn't agree, the complaint has been passed to me for a decision.

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.

Having done so, I'm not upholding the complaint for broadly the same reasons as the investigator. I've focused my comments on what I think is relevant. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

First, I want to recognise the impact this complaint has had on Mr B. I recognise the equipment Mr B claimed for had a significant financial and sentimental meaning to him. So, when he discovered the equipment was missing, I can appreciate the significant upset and worry this would've caused. I also recognise that Mr B took out the policy with AXA, including additional specified item cover away from his home, to assist him both financially and practically in situations such as the one he found himself in. So, when AXA declined the claim, I can understand why Mr B would feel unfairly treated.

But for me to say AXA should do something more, such as overturn the original decline and accept the claim, I first need to be satisfied they've done something wrong. So, I'd need to be satisfied they failed to act within the policy terms and conditions when declining the claim. Or, if I think AXA did work within these, I'd need to be satisfied that they acted unfairly in some other way. And in this situation, I don't think that's the case.

Before I explain why I've reached this decision, I think it would be useful for me to set out exactly what I've been able to consider. I recognise Mr B has concerns about the sale of the policy, and the advice he was given surrounding this. But Mr B purchased the policy through H, who were acting as an intermediary in their own capacity, as a separate regulated company to AXA. So, any complaint about the advice H provided at the point of sale, or any renewals, would need to be considered under a separate complaint reference. And so, I won't be commenting on this any further within this decision.

Instead, I've focused on the actions taken by AXA in their role as the insurer. And as the insurer, they are responsible for the decline of the claim. So, I've considered the declination of the claim and decided whether I think it was fair, and within the policy terms and conditions. And I think it was on this occasion.

When Mr B initially reported his claim to AXA, he explained his belief that the equipment had been stolen from his unoccupied car overnight. And it's accepted there was no sign of damage or violent entry to his car, so Mr B speculated that the theft had been completed gaining access to his car remotely while he was in his home.

I can see G, on behalf of AXA, considered these circumstances against the policy terms and conditions. Within these terms and conditions, under the relevant section for specified items outside of the home, I've seen it explains that for theft claims, cover isn't provided *"for items stolen from unoccupied vehicles"*. It's not disputed that, in this version of events, the vehicle

Mr B's equipment was in was unoccupied and so, I think AXA applied this exclusion fairly here and I'm unable say they were unreasonable when initially declining the claim.

But I note a few weeks after this decision was communicated to Mr B, he returned to G providing a differing version of events. And he explained he did so as he checked his car's security software, which he accepted showed there was no access made to his car overnight.

Because of this, Mr B felt the theft most likely occurred during the afternoon of 2 August 2022, when he and his wife were unloading the contents of his car into his home. Within Mr B's version of events, he explained his grandson was asleep in the car throughout the entire unloading process. And Mr B explained that *"during that time, my wife and I were separately conveying various items from the car to the house, whilst keeping an eye on our grandson, who continued to sleep in his car seat"*. Mr B went onto explain that he thought it would've taken him between 3 to 4 minutes to remove his grandson from the car before securing the locks and activating the security system. So, he thought it was during this period the equipment was stolen. And he felt it was likely the persons stealing the equipment would've most likely concealed themselves near his car, in a deceptive manner. So, this is why he felt the claim should be upheld.

I'm satisfied G, on behalf of AXA, considered this new version of events, as I'd expect them to do, as they provided an email reply on 12 September 2022 maintaining the decline of the claim. So, I've thought about whether this decline fell within the policy exclusions. And I think it did.

Based on Mr B's version of events, I think AXA have acted fairly when deeming the car to still be unoccupied. This is because, based on the description provided by Mr B, the only person that remained definitively in the car was his sleeping grandson. And considering the age of his grandson, who needed to be removed from the car by an adult, and the fact his grandson was asleep, I don't think his grandson would've been able to have deterred any theft that was taking place.

I appreciate Mr B has disputed this, and has since explained either he, or his wife, sat in the back of the car with his grandson. But I don't think this was made clear in Mr B's version of events that AXA had to consider at the time they declined the claim. Mr B's version of events suggested both he and his wife were removing items from the car and taking them into their home. While Mr B did say they were keeping an eye on his grandson, I don't think his testimony made clear that at any given time, one of them were always in the car with him. So, I don't think there was any information available to AXA that suggested to them the car should've been deemed to be occupied.

And even if they had, the terms and conditions also explain that cover isn't provided *"unless there are signs of damage caused by the thief (or thieves) to access the item(s), or they used violence or deception to steal your item(s), or the item(s) were under your personal supervision at the time of the theft"*.

In this situation, it's already accepted there were no signs of damage, or violence used to gain access to the items. And in Mr B's version of events, the items weren't under his personal supervision as he felt they were most likely stolen while he transported his grandson into his home. So, for cover to be provided, if we were to say the vehicle was occupied, there would need to have been deception used to obtain the equipment. And I don't think I can say there was here.

Mr B has accepted there was a period of time between him taking his grandson out of the car, and the car being locked. So, I don't think the thief or thieves needed to deceive Mr B to

gain access to the car, as it was left unlocked with no supervision. And because of this, I think AXA would've fairly declined the claim, whether or not the car was deemed to be occupied.

I appreciate Mr B doesn't agree with this. And he feels that the thieves concealing themselves whilst he unloaded the car was a form of deception. But I don't think this is the deception that allowed them access to the car. The access to the car, and so the items, was present as the car was left unlocked, and unattended, while Mr B transported his grandson into his home based on his version of events. Had the car been locked, I think it's reasonable to assume this theft wouldn't have taken place, with or without the potential thief/thieves concealing themselves. So, I don't think Mr B's comments changed my decision that AXA have acted fairly, and within the policy terms and conditions, when declining the claim. And because of this, I don't think AXA need to do anything more.

My final decision

For the reasons outlined above, I don't uphold Mr B's complaint about AXA Insurance UK Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 23 August 2023.

Josh Haskey
Ombudsman