

The complaint

Miss H complains about how AXA Insurance UK Plc dealt with her claim after her car was involved in an accident. And she's unhappy that her claim was declined and AXA have recorded a fault claim against her.

What happened

Miss H has insurance for her car with AXA. On 25 January 2023 Miss H's car, which was being driven by her partner, was involved in an accident. Miss H's partner was approaching a roundabout with three cars in front of her. The first of the cars braked suddenly and she collided with the car in front of her, pushing it into the two other cars. Miss H reported the accident on the day that it happened.

On 26 January 2023 Miss H called AXA as she was unhappy that she hadn't been provided with a courtesy car. She was told the claim would be on hold until indemnity issues were resolved, as her partner wasn't covered by her policy. And she'd only be provided with a courtesy car when her claim was accepted and her car was with a garage for repair. Miss H wasn't happy with this as she said was paying for her insurance, which covered a courtesy car, so one should be provided.

Miss H passed the phone to her partner who told AXA that she took the car without consent and she was being prosecuted for driving without insurance. She said she'd thought she was covered by her own policy but wasn't. She also said the accident was her fault, and nothing to do with Miss H, so she shouldn't be held responsible.

Miss H wanted to speak to a manager. We don't have the recording of this call but AXA's claim notes confirm that she was told that as her car had collided with the rear of another vehicle they'd have to deal with the claims that were presented to them. Miss H wasn't happy with this and said she intended to seek legal advice. She was told she could do this but based on the available information AXA intended to deal with any claims on the best available terms. She also told AXA she intended to press charges against her partner for theft.

On 27 January 2023 Miss H called AXA wanting her claim to be cancelled. She was told they couldn't deal with her claim as her driver wasn't insured, but they couldn't cancel the claim due to potential claims from the other parties involved.

On 30 January 2023 Miss H advised AXA that she wasn't pursuing a claim for theft against her partner.

Following the accident Miss H's car was being held by the police. Miss H called AXA on 21 February 2023 as her car had been collected and placed in storage by agents instructed by them. She raised a complaint about this as she'd been told her claim wasn't covered, so they shouldn't have collected the car, and about the difficulties she'd had contacting them. AXA authorised their agents to release the car to Miss H and it was collected by her at the end of February 2023 after AXA agree to pay the storage charges.

On 9 March 2023 AXA wrote to Miss H advising her that they were declining her claim as her partner wasn't a named driver on her policy. And as she was in breach of the terms and conditions of her policy AXA said they were unable to assist with her claim.

On 16 March 2023 AXA emailed Miss H with an accident report form for her driver to complete. She replied asking what the form was for and saying she wasn't prepared to speak to them until she had a response to her complaint.

AXA replied the same day informing her that they'd received a number of claims from the other vehicles involved in the accident who were holding her driver at fault. They said that as her driver was uninsured, as insurers of her car, they were obliged to deal with these claims as Road Traffic Act insurer. So they needed details from her driver of how the accident happened. They reminded her that her complaint was separate to the issue of liability and she shouldn't delay their enquiries while her complaint was being investigated.

Miss H replied to AXA on 17 March 2023 saying they'd messed her around and thrown different information at her. She said her mental health had deteriorated as a result of this information, that AXA didn't know what they were talking about and she wanted compensation or she'd be talking to a solicitor.

AXA sent Miss H a further email on the 17 March 2023 regarding her driver providing full details of the accident circumstances.

Miss H replied to this the same day saying she was disappointed by how they'd treated her. She repeated her allegation that she'd been provided with misleading information, initially being told her claim was covered and she could have a courtesy car, then being told she couldn't and her claim wasn't covered. And added to this she'd borrowed money to arrange to collect her car, but then found their agents had collected it. She said she regarded this as theft and wanted compensation or she'd be reporting this to the police.

On 20 March 2023 AXA wrote to Miss H advising her that they'd received multiple claims from other people involved in the accident, who were holding her driver responsible. They'd been told that her driver collided with the rear of a vehicle which had been pushed into two other vehicles.

AXA reminded Miss H that even though they'd told her they'd not be dealing with her claim, they were obliged to deal with the claims they'd received as Road Traffic Act insurers, subject to any liability dispute. They repeated the request that she or her driver contact them to provide further details of the accident circumstances. But said that if they didn't hear they'd have no alternative but to deal with the claims they received.

Miss H called AXA on 20 March 2023 with a query about her renewal and to advise them that it took two days to recover her car from their agents. She told them she had to drive two hours to the yard where her car was and spend over £100. This had impacted on her mental health, which she said wasn't great anyway.

Miss H followed up her call to AXA by emailing them on 20 March 2023 confirming the details of her complaint. She said she was unhappy with the following: -

- 1) Long wait times and poor customer service.
- 2) That the accident had been recorded as a fault claim against her.
- 3) She felt how her claim had been handled discriminated against her.

- 4) She hadn't breached her policy terms and conditions to allow AXA to repudiate her claim.
- 5) AXA had stolen her car by removing it from storage.
- 6) She wanted information about her complaint to be sent to her.
- 7) Her renewal premium had increased due to the incorrect handling of her claim.
- 8) She queried what vehicle her policy covered.
- 9) She'd suffered financial harm and inconvenience in recovering her car from AXA's agents.

On 21 March 2023 AXA replied to Miss H's email saying that they understood she wasn't involved in the accident and explaining again that they had an obligation under the Road Traffic Act to deal with the claims they received, where the driver of the vehicle was known, as her insurance covers her vehicle as well as named drivers.

They explained that, subject to liability, the other parties were entitled to claim against her policy, which meant a fault claim would be recorded against her. They also said they were sorry the case had caused her stress, but they'd needed to fully understand what had happened. They said that unless they heard from her they now intended to deal with the claims they'd received as economically as possible. And their complaints team would contact her about the concerns she'd raised.

On 22 March 2023 Miss H called AXA to discuss the complaint she'd raised in January 2023. She told them she was suffering from severe mental health problems as a result of the claim, when she wasn't even driving and she wasn't happy that AXA had allowed claims to be pursued against her. She told AXA she didn't want to hear from anyone in their Claims team until she'd had a response to her complaints.

AXA responded to Miss H's complaint on 26 April 2023. They said that the service she'd received regarding the logging of her claim, and the information provided about the provision of a courtesy car, fell below the standard they'd expect. This part of her complaint was upheld and AXA said she'd already received £75 compensation for the inconvenience this had caused.

They acknowledged that their agents had collected her car from the police compound, and that the agent's instructions should have been cancelled, once it was clear they wouldn't be covering her claim. They apologised for the level of service she'd received and the inconvenience this had caused. So they upheld this complaint and said they'd issued £720 compensation. This was £500 for her recovery charges, £45 for her fuel charges and £175 for the distress and inconvenience she'd experienced.

AXA didn't uphold Miss H's complaint about declining her claim or that by doing so they'd discriminated against her. They said her claim had been correctly declined, in line with her policy terms and conditions, as her car was being driven by someone who wasn't insured to drive it. And they said they were obliged to deal with the claims they'd received so this complaint also wasn't upheld.

They also apologised for the long wait times Miss H had experienced when contacting them. They upheld this part of her complaint and said she'd already been issued with £50 compensation for this. So they'd given her £845 compensation together with a further £25 for exceeding their complaint timescales.

Miss H wasn't happy with the response she received from AXA and complained to our service. Our investigator considered the case and said she was sorry to hear of the stress the situation had caused Miss H. She said she'd reviewed the information both sides had provided and the settlement offer AXA had made.

She felt the offer of £75 AXA had made for the misinformation about the provision of a courtesy car was fair and in line with our approach to awards for distress and inconvenience. And having reviewed Miss H's policy she said that unfortunately she wasn't entitled to a courtesy car because she didn't have a valid claim, as her partner wasn't insured to drive her car. Our investigator also thought the £50 AXA had offered for long wait times Miss H had experienced was reasonable.

Our investigator agreed that AXA should have cancelled the instruction to their agents about collecting Miss H's car sooner. She said they didn't have to cover the storage charges for Miss H's car, as they weren't responsible for them, but in light of what happened she thought it was right that they'd done this. She said the £500 AXA had paid in respect of the recovery charges and £45 in respect of fuel charges, covered the expenses Miss H had incurred. And she felt the £175 AXA had offered for the distress and inconvenience Miss H had experienced was reasonable, so she didn't ask AXA to increase this.

Miss H had complained that AXA had wrongly logged the case as a theft claim. Our investigator considered this but said that during a call with AXA on 26 January 2023 Miss H's partner said that she took the car without consent, and Miss H had said she intended to pursue a claim for theft. So the claim had been logged correctly. And when Miss H told AXA on 30 January 2023 she wasn't pursuing this they changed the status of the complaint.

Our investigator said that while she appreciated Miss H had found the situation and dealing with AXA very stressful, and AXA had agreed that at times they could have provided a better service, the claim itself wasn't their fault. So they couldn't be held responsible for any stress Miss H had experienced as a result of the accident and her partner driving her car. She could only ask AXA to provide compensation for any unnecessary stress arising from their actions. So she didn't uphold the complaint.

Miss H wasn't happy with our investigator's opinion as she said AXA had misinformed her throughout the claim, and she wouldn't have been distressed if this hadn't happened. And she wanted our investigator to listen to the calls she'd had with AXA.

AXA weren't able to provide the initial call Miss H made, but they provided the call she made on 26 January 2023, the day after the accident. Our investigator listened to this call and said that initially Miss H had been told she was entitled to a courtesy car. But when she explained the full circumstances of the accident, and that her partner hadn't been insured to drive the car, the call handler checked and confirmed that Miss H wouldn't be entitled to a courtesy car. Our investigator said that even though Miss H was initially told she'd be entitled to a courtesy car, this was corrected during the call, so she'd couldn't say Miss H had been inconvenienced.

Miss H had asked for a manager to call her back. Our investigator said that the manager explained that as her partner didn't have valid insurance they wouldn't be covering the damage to her car. And there was a conversation about the car being stolen, during which Miss H said that she intended to press charges. Miss H was told that the claim was likely to be repudiated and she should arrange to collect the car as it would be incurring storage charges.

Our investigator said that she could see Miss H had called AXA the following day to say she wanted to cancel her claim but was told they couldn't do this, as they'd received claims from

the other parties involved in the accident. And they explained they couldn't deal with her claim as her partner wasn't insured.

In respect of the recovery of her car our investigator said that Miss H wasn't able to collect her car as there were outstanding storage charges. AXA agreed to cover these and compensated Miss H for having to make two trips to recover the car. Our investigator said she couldn't see that AXA had provided any misinformation, although she acknowledged she hadn't been able to listen to the first call Miss H made. So our investigator didn't change her opinion on the case.

Miss H wasn't happy that AXA weren't able to provide the first call she made to report the accident. And said she didn't understand our investigator's reasoning given all she'd gone through. And she said AXA had logged the details she reported incorrectly. She provided a screenshot of information she says she received from AXA after she reported the accident, which confirms she was entitled to a courtesy car and that their agents would contact her to discuss and agree a valuation for her car.

Our investigator replied to Miss H acknowledging that she was given the wrong information at first about her entitlement to a courtesy car. But AXA has accepted this and paid £75 compensation. And AXA had covered her storage and recovery charges and paid compensation for not cancelling their agent's instructions to collect the car. So they'd put things right in the way we'd expect them to.

Miss H remained unhappy saying our investigator had taken AXA's side throughout, hadn't considered the impact of the case on her mental health and that AXA had stolen her car. Our investigator replied to this saying she'd not taken AXA's side but had provided an impartial opinion based on the evidence. Miss H replied to this saying she'd suffered a life changing ordeal, she'd been palmed off with just over £1000, she'd suffered for more than a year and none of AXA's claims handlers knew what they were doing.

The case has now come 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.

I've set out the background to this case in detail as I think it's important to have a clear understanding of what happened, and over what timescale.

It's unfortunate the AXA can't provide the initial call Miss H made on 25 January 2023 to report the accident. But we have the call she made to them the next day, 26 January 2023. It's clear from this that Miss H was initially told she was entitled to a courtesy car, but this was corrected when the circumstances of the accident were given. And Miss H was told that as her partner wasn't insured to drive her car her claim was likely to be declined.

So the day after the accident Miss H was given clear information about what the outcome of her claim was likely to be. When she tried to cancel her claim the following day, she was told this wasn't possible, as by then AXA had received claims from other parties involved in the accident.

AXA have accepted that they initially provided incorrect information about providing Miss H with a courtesy car and have paid £75 compensation for this, which I think is reasonable.

Miss H's policy schedule confirms that she is the only person covered to drive her car. Her

partner spoke to AXA during the call on 26 January 2023 and said that she'd thought she had cover under her own motor insurance policy to driver Mis H's car, but she didn't. And during this call Miss H was told her claim was unlikely to be covered. So the day after the accident she was put on notice that her claim was unlikely to be paid.

I can't say that AXA initially wrongly recorded Miss H's car had been stolen as her partner told AXA she'd taken the car without consent, and Miss H told AXA she intended to pursue charges relating to this. But when Miss H told AXA she wasn't pursuing a theft claim, how the claim was recorded was changed to reflect this.

After she was told her claim was likely to be declined Miss H wanted to cancel her claim. She was told that this wasn't possible as AXA had received claim from other parties involved in the accident. She was very unhappy that AXA were dealing with these claims against her policy. While Miss H may not agree with AXA's actions, they correctly explained that while they accepted she hadn't been driving the car, they insured the car as well her. And as her partner was uninsured they had an obligation under the Road Traffic Act, subject to liability being established, to deal with third party claims arising from the accident.

Miss H had an obligation under the terms and conditions of her policy to cooperate with AXA in investigating any claims. The other parties involved in the accident blamed her driver for causing a multi-party shunt. So they asked Miss H, or her driver, to provide full details of how the accident had occurred. Miss H told AXA she wouldn't provide any further information until her complaint had been dealt with. As AXA had told her they'd have to deal with the claims, in the absence of evidence that her driver wasn't at fault, I can't say that AXA did anything wrong in dealing with these claims, or in recording a fault claim against Miss H's policy. And I'm taking into account that during the call on 26 January 2023 Miss H's partner had confirmed she was responsible for the accident.

AXA have accepted that they should have cancelled the instructions to their agents to collect Miss H's car. She clearly experienced inconvenience as the car had already been moved when she went to collect it. I don't agree with Miss H that AXA stole her car. Her car had been moved and while she had to make a second trip to collect it, she got the car back after a short delay.

I need to consider whether the payments AXA have made to Miss H adequately compensate her for the inconvenience she experienced. The car couldn't be released until the storage charges were paid. AXA covered these even though they weren't obliged to do so, as they weren't accepting Miss H's claim. Given what had happened and the extra trip Miss H had to make, it's good that they did this, and if they hadn't I'd have suggested they did this.

And they covered her recovery charges, her fuel costs and paid £175 compensation for the distress and inconvenience she experienced.

Miss H has told both our service and AXA that she doesn't think the overall compensation they'd offered compensates her for their poor handling of her claim, the year of hell she's been through and the impact on her mental health.

While AXA did get certain things wrong these were corrected quickly. Miss H was told the day after the accident that she wasn't entitled to a courtesy car. It's clear that she wasn't happy about this, as she thought her policy entitled her to one, but the initial information she was given was corrected quickly.

I accept that Miss H would have been distressed when she wasn't able to collect her car when she went to pick it up. And while the car shouldn't have moved, AXA put things right quickly and she was able to collect the car the following day.

There's always going to be a level of inconvenience when an accident occurs. If Miss H's partner had been insured when the accident happened, then her insurers, if she was covered under her own motor insurance policy, or AXA if she was a named driver on Miss H's policy, would have dealt with the claims. But as she didn't have insurance AXA were required by law to deal with the other parties' claims, and a fault claim was recorded against Miss H's policy.

Miss H may not have liked this, but I think once AXA knew the full accident circumstances they explained things clearly to her. She didn't want them to deal with the other parties' claims, or to record a fault claim against her policy, but I'm satisfied that they dealt with things correctly and as they were required to do. So I don't accept that no one at AXA knew what they were doing, as Miss H has said.

Miss H has told us that how AXA have dealt with her claim has had a significant impact on her mental health over the last year. I'm really sorry to hear that. AXA did make some mistakes, but as I've said I think they corrected any misinformation Miss H was given quickly and offered her compensation. They also covered her expenses relating to collecting her car, including the storage charges, and I think the compensation they offered for her distress and inconvenience was fair in all the circumstances. So I won't be asking them to do anything more.

My final decision

For the reasons set out above my final decision is that I don't uphold Miss H's complaint about AXA Insurance UK Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 13 February 2024.

Patricia O'Leary
Ombudsman