

The complaint

Mr G has complained that AXA Insurance UK Plc recorded a claim he made under his motorcycle insurance policy as a 'fault' claim.

What happened

Mr G made a claim under his motorcycle insurance policy to his insurer, AXA in May 2022. Mr G came off his motorbike which he says was due to an uneven road surface.

Mr G says AXA failed to properly investigate the claim. He says he provided evidence to show fault by a third party due to loose gravel on the road which hadn't been bonded. Mr G said a broker and claims agent on behalf of AXA was involved in the claim. He said he provided information to investigate liability for the incident to at least one of the parties.

AXA said it didn't have a record of the information Mr G said he'd provided. Mr G offered to send the information again to AXA in September 2022 - but wanted AXA to first provide details of what checks it had made to find the information Mr G said he'd provided. He didn't receive a reply to his request from AXA. And so he didn't provide the information and raised a complaint.

Mr G wants AXA to change the recording of the claim to a 'non-fault' claim and compensate him for the distress and inconvenience caused. Mr G says he had to remove himself as a named driver under his wife's policy due to the increase in premium.

In December 2022 AXA upheld Mr G's complaint in part. It apologised and said it hadn't received evidence from Mr G to support that a third party was at fault for the incident. It agreed it had failed to respond to Mr G in September 2022 when he offered to send the information - with conditions - to AXA.

AXA explained that the term 'fault' is used for claims that are open and where liability has not yet been established - and/or where recovery of the costs of the claim from a third party hasn't occurred. For failing to explain this to Mr G when he made his claim - and for failing to respond to Mr G in September 2022, AXA paid Mr G compensation of £150.

Mr G remained unhappy and asked us to look at his complaint.

Our Investigator thought AXA had correctly followed the process in how it recorded the claim. As it didn't receive the requested information from Mr G, the Investigator thought AXA had done enough to resolve the complaint.

Mr G didn't agree. He said in response to AXA's request for him to re-send the information - he asked it to provide details of what it held on file for the claim, and what enquiries it had made with its agents to follow up on information Mr G said he sent to agents acting for AXA.

Mr G said as AXA didn't respond to his request, he disagrees that he refused to send the information to AXA. He said before he sent the information, he wanted to establish if AXA or a claims agent acting on AXA's behalf had lost his information.

The Investigator explained that AXA told Mr G it didn't know what had happened, but that it didn't have a record of the information he said he sent - and this is why AXA asked Mr G to send it. The Investigator didn't think AXA had acted unreasonably in not meeting the

conditions Mr G set before he would send the information AXA asked for - to consider liability under the claim. As it didn't receive the information it asked for, the Investigator explained that he didn't think AXA had done anything wrong here up until it responded to Mr G's complaint in December 2022.

Mr G said AXA failed to respond to his request in line with General Data Protection Regulation (GDPR) rules, which our Investigator explained Mr G would need to raise with the Information Commissioner's Office (ICO). Mr G accepts this, but doesn't accept that he obstructed the progress of the investigation into his claim by not providing the information he says he already provided to either AXA, the broker or claims handling agent on behalf of AXA.

Mr G says the claim was closed in September 2022 as a fault claim by AXA before it had investigated it.

The Investigator contacted AXA to ask if it would now consider the information Mr G has provided, which AXA agreed - and it has since re-opened the claim.

Mr G wants an ombudsman to decide.

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.

When Mr G contacted AXA to complain that he'd already sent evidence to 'multiple parties' to support his claim that a third party was at fault for the incident, AXA explained that it didn't have a record of receiving it and apologised for this.

I appreciate that Mr G believes AXA is responsible for failing to follow up with the other agents involved in his claim and he believes the information that he'd previously provided was lost.

AXA's claim notes show an entry dated 22 September 2022. It reads:

"I called broker spoke to (name of claims handling agent inserted here) was advised no information was sent to them regarding who is at fault or any of their information / police ref / images"

I have to take an even handed approach to things and consider whether Mr G did all he could to mitigate matters, once he was aware that AXA didn't have a record of the information - and while he was in a position to send it to AXA to investigate the claim. With this in mind, I can't safely conclude that AXA's actions have caused an avoidable delay which may have prejudiced the likely success of the claim being settled as a non-fault claim, as Mr G suggests.

I understand Mr G wanted AXA to provide him with further information before he was happy to send the evidence he wanted it to consider. And he is unhappy that this request wasn't responded to by AXA. As the Investigator explained, Mr G can contact the ICO if he is unhappy with the way AXA dealt with his request for information here.

Mr G's claim has been closed and re-opened while AXA has looked at the issues Mr G has raised since September 2022. And AXA has confirmed it has re-opened the claim again to consider the evidence from Mr G, now that it has received it.

Mr G says AXA seems to acknowledge it lost claims information which led to a failure in its duty to properly investigate the claim. I agree AXA accepts it doesn't have a record of the information Mr G says he provided. And AXA accepts that it failed to reply to Mr G's request

for information in September 2022 and paid compensation for the distress and inconvenience caused.

Overall I think AXA dealt with Mr G's complaint reasonably in December 2022.

I understand Mr G will be disappointed with my decision. But this means I'm not upholding his complaint.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 22 June 2023.

Geraldine Newbold
Ombudsman