

The complaint

H, a limited company, complains about delays to a claim it made to AXA Insurance UK Plc on a landlord protection insurance policy.

H is represented in its dealings with our service by its director, Mr F. I'll refer to Mr F and H within this decision.

What happened

H owns a number of properties and has commercial tenants in some of these. It holds a landlord protection insurance policy provided by AXA.

One of the properties was damaged due to water entering through the roof. H made a claim on the policy.

Mr F, on behalf of H, complained to AXA about delays to the claim. He said that because these delays, the tenant at the property had initiated legal action. He said AXA should make a contribution to H's legal fees incurred in defending this action.

AXA acknowledged there had been delays in its handling of the claim, and agreed to pay a total of £200 compensation to recognise this. Mr F referred the complaint to our service. Our investigator considered that the compensation offered by AXA didn't properly recognise the impact of the delays on H. She thought AXA should pay an additional £100 compensation, making £300 in total. AXA agreed with this assessment. Mr F, on behalf of H, didn't, and believes that AXA should make a contribution to H's legal fees. As no agreement could be reached, the complaint has come to me make a final 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.

My starting point here is that AXA has already admitted there were avoidable delays during the course of its assessment of the claim. What I need to do is conclude on the extent of the delays, and the impact of these. Ultimately, I need to address whether, in my opinion, the avoidable delays resulted in the tenants taking legal action against H.

It's important to note here that AXA should only be considered at fault for avoidable delays. It's generally accepted that resolving an insurance claim does take time, particularly where there is damage to a property. I think it's fair to say that the length of time would possibly be longer in this case, where H, the property owners, AXA, the insurer and its representatives, the tenants of the property and H's insurance brokers who were in contact with AXA during the claim, were all involved in one way or another and in contact with each other.

On reviewing the evidence available to me, I think it's fair to say that the avoidable delays which are attributable to AXA (or its appointed representatives) were a few weeks at most. I say this because there was a period of 12 days after the claim was notified to AXA before

loss adjusters were appointed to deal with the claim on its behalf. It was then over three weeks before the loss adjusters visited the property.

I do accept though that during the period I've outlined above there were a number of factors which mean that the entirety shouldn't be considered to be an avoidable delay. I'm aware that during the period between the loss adjusters being appointed and their visit they were undertaking enquiries and reviewing the available information. They were also seeking to arrange the appointment with the tenants. This was also during the Christmas period – the visit took place on Christmas Eve.

In the period between Christmas and the New Year, AXA concluded that the damage to the roof wasn't covered by the policy and H was informed of this. I'm aware that following this, AXA and its representatives undertook enquiries into the liability on the policy for damage to the interior of the property. I haven't seen any evidence to suggest that there were avoidable delays due to the actions (or inactions) of AXA during those enquiries.

AXA's paid £200 in total to recognise the inconvenience caused to H by the avoidable delays. It's agreed with our investigator's opinion that this should be increased by £100, making £300 in total. I agree that this amount properly recognises the inconvenience to H, by its representatives having to chase AXA for updates and also field queries from the tenants without being able to give a clear answer or timescale for the insurance claim to be progressed.

I conclude that AXA should pay an additional £100 compensation to H.

I've also considered whether AXA should be required to make a contribution towards H's legal fees, which it incurred when the tenants initiated legal action. I'm not persuaded that it should.

I say this for a number of reasons. AXA had declined cover for the roof repair at the end of December, and H received a letter from the tenant's solicitors over six weeks later, in February. I think this is significant, as the delays attributable to AXA's poor service were a matter of a couple of weeks at most in December. I think it's difficult make a direct connection between those delays in December and the decision to take legal action in February. I note from the tenant's solicitors that no specific mention is made of delays at the early stage of the claim. The avoidable delays, for which AXA is responsible, ended in December. Legal action didn't start until February.

The tenant's solicitors refer, in their letter, to the lack of repairs to the roof and that this is causing ongoing issues at the property. AXA had declined cover for the roof repairs in December. It's H's responsibility in the first instance, and throughout the claim process, to mitigate their loss. Once the claim had been declined, it was H's responsibility to repair the roof. I think it's a fair conclusion to say that the lack of apparent repairs to the roof by February were a significant part of the reason for taking legal action, and that the majority of that time wasn't due to any inaction or poor service from AXA.

I'm also aware that the solicitor's letter to H makes reference to alleged electrical issues at the property. These aren't connected to the claim, or any action of AXA. This is further evidence in my opinion that the legal action is unrelated to the delays caused by AXA.

AXA has noted, and it doesn't appear to be disputed by H, that there were difficulties in the relationship between the tenant and H which pre-dated the claim. While the existence of the claim acted, I'm satisfied, as a trigger for the legal action, I think that there was a certain degree of inevitability of this happening once the matters leading to the claim had occurred (for which AXA isn't responsible) given the deteriorating relationship between H and the

tenant.

So on balance, I can't conclude that legal action was only taken because of delays. I also can't conclude that the legal action was partially caused by the delays. I don't think that the avoidable delays played any part in the tenant's decision to initiate legal action. I won't be asking AXA to pay anything towards H's legal fees.

My final decision

It's my final decision to uphold this complaint in part. In order to put things right, AXA Insurance UK Plc must pay H an additional £100 compensation, making £300 in total.

AXA Insurance UK Plc must pay this amount within 28 days of us telling it that H has accepted our decision. If it doesn't, it must pay simple interest on the amount at a rate of 8% per year from that date until the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask H to accept or reject my decision before 22 August 2022.

Ben Williams
Ombudsman