

The complaint

Mr R complains that AXA Insurance UK Plc has declined two building insurance claims he made and unfairly increased his premium at renewal.

What happened

In October 2019 Mr R raised a claim with AXA when he noticed water was backing up in two of his toilets. He used his home emergency cover to get someone out to unblock them. Mr R says the contractor also advised him that the blockage was caused by a collapsed drain. AXA appointed a contractor to go out to carry out a site visit. The contractor went out but was unable to gain access as no-one was home. It then tried to reschedule the visit but had difficulty in contacting Mr R. Mr R called AXA and said he was looking to get his own contractor to look at the problem instead; AXA asked him to send it any quotes he received.

Mr R then called AXA about a week later and said that he wanted to send his quote over and asked AXA to liaise with his brother about doing so. Two weeks later, Mr R called AXA to see if it'd received his quote; AXA said it hadn't. Mr R called AXA again on 10 January 2020 about the quotes but AXA said it hadn't received them so it sent an email from its own email address so Mr R could reply to it and make sure the quote was attached. Mr R also said he wanted to discuss his renewal quote which he'd just received. AXA chased Mr R again about a week later as it'd still not received his quote for the drain repairs.

AXA's contractor said it'd attended site again but there was no one home since when it'd been trying to call Mr R to rebook with no success. AXA then closed its file. On 25 February 2020 it received Mr R's quote for £2,100 for the drain repairs. The quote referred to removing the broken drains shown on the CCTV survey. AXA asked Mr R for a copy of the CCTV survey before accepting the claim. When AXA heard nothing further from Mr R it closed his claim.

Also in October 2019, Mr R raised a claim with AXA for storm damage. Mr R said water was getting in upstairs. AXA accepted that there had been storm conditions and arranged for drone survey of Mr R's roof to take place. On assessing the footage, AXA told Mr R it thought it showed evidence of storm damage so it appointed a contractor to attend and provide a report detailing the cause of the damage to the roof, an estimate for the patch repairs along with an estimate for the internal work required to two rooms affected by water ingress.

Scaffolding was erected from which the surveyor was able to inspect the roof. In February 2020 the surveyor reported to AXA that there were a small number of dislodged tiles but there was also a leak around an original cast iron skylight (approximately 100 years old). The surveyor thought the damage to the roof was due to wear and tear. He also noted that most of the damp was the result of mortar deterioration on the parapet walls, ridge, and chimney. The surveyor recommended the roof – which he assessed to be the original one – needed to be replaced as no guarantee could be given for any repairs.

AXA declined Mr R's claim for storm damage on the grounds it'd been caused by wear and tear (not storm) which was specifically excluded under the policy. It said the storm conditions

had highlighted pre-existing issues with the roof.

Mr R disagreed with AXA's decision. AXA said that it had no reason to doubt the conclusions of its surveyor but said that if Mr R wanted to get a report of his own about what had caused the damage then it would consider it.

On receiving his renewal documents Mr R noted his premium had more than doubled so he decided to shop around, eventually taking out insurance with another provider.

Upon being told by AXA that it wouldn't be covering his claim for storm damage, Mr R complained. He said that he thought his decision to decline AXA's renewal offer had affected his claims. He said the surveyor hadn't inspected the roof properly and had only been interested in getting him to agree to a new roof. Mr R said he wanted the roof inspected by another surveyor. And he said the damage to the bedroom had been caused as a result of the slate tile moving in the bad weather. Mr R also complained that one of AXA's contractors had broken into the rear of his property through the side gate, leaving it open. Mr R said the contractor didn't have his permission to do so and, as he had CCTV of the incident, he was referring it to the police before taking legal action.

AXA issued its final response to Mr R's complaint in mid-March 2020 but didn't uphold it. It said it was satisfied that its decision to decline Mr R's storm claim was in line with the policy terms and conditions but it repeated that should Mr R wish to provide a report of his own then it would consider it. With regard to Mr R's complaint that a contractor had trespassed, AXA said it took such allegations very seriously and asked Mr R to forward his CCTV footage and police report.

Mr R then brought a complaint to this service. He told our investigator that the contractor had left some slate tiles in the gutter that had since fallen down and nearly hit his sister. Mr R said too that his health was suffering as a result of the damp conditions.

Our investigator looked into Mr R's complaint and recommended that it was upheld in part. She said she thought AXA had treated Mr R fairly and reasonably in the way it'd assessed his claim for drain damage and in the way it'd handled his complaint about its contractor trespassing. She noted that, in relation to the storm claim, AXA had told Mr R that there was evidence (from the drone footage) of storm damage to the roof. And she said that she thought AXA's surveyor had carried out a satisfactory inspection of the roof and was able to form an expert opinion about the damage.

Our investigator went on to say that AXA's offer for Mr R to obtain his own report was also fair. But she said that, on assessing the surveyor's report she hadn't found it overly persuasive and she thought the damage to the tiles hadn't been fairly assessed. Consequently she didn't think the storm damage claim had been fairly assessed at all and she thought the areas of internal damage were consistent with the areas of external damage. So she said that it was fair to think the internal damage was the result of water ingress as a result of the storm.

With regard to Mr R's complaint about the increased price AXA offered him at renewal, our investigator said that Mr R hadn't been obliged to accept it and was free to shop around for a more competitive quote, which he'd done. And she said there was no evidence that his claims had been declined because he'd not renewed his policy.

Our investigator recommended that AXA settle the claim for the roof tiles and internal damage and pay Mr R compensation of £400 for the length of time the claim had taken and the conditions he'd had to live in.

AXA responded to say that it didn't accept it was liable in any way for the damage claimed

but said it accepted the compensation recommendation of £400 for material inconvenience caused. Mr R said that he thought AXA should have to pay more compensation for declining to accept what our investigator had recommended and for the damage to his health. Mr R said that AXA had a final opportunity to reach an agreement with him before he took legal action. He said he didn't see how providing a full report about the roof would change anything, that there was now a crack in his kitchen and that he objected to our investigator's findings in relation to his drainage claim.

Our investigator advised that as Mr R hadn't complained to AXA about his health issues she was unable to look at that issue for him within the confines of this complaint.

The complaint was passed to me and I issued a provisional decision in February 2022 also recommending that the complaint was upheld in part but for different reasons to our investigator. I made the following provisional findings:

"Storm claim

As both Mr R and AXA are aware, this service has a long-standing approach to assessing complaints concerning storm damage claims. We ask 3 questions, the answer to all of which must be yes if we are to agree that a storm claim has been unfairly declined. The questions are:

- 1. Were there storm conditions around the date the damage was said to have occurred?*
- 2. Is the damage being claimed for consistent with the damage a storm typically causes?*
- 3. Were the storm conditions the main cause of the damage?*

AXA has accepted there were storm conditions around the time Mr R discovered damage to his roof. So I don't need to consider this question any further and I accept the answer to this question is 'yes'.

There are several different areas of damage to Mr R's roof – slipped tiles, mortar deterioration and a leaking skylight. I think that slipped tiles are a type of damage that can be consistent with the sort of damage a storm typically causes.

I don't think that a leaking skylight is typically the kind of damage a storm could cause. I say this because a well-maintained skylight should be more than capable of withstanding the sort of storm conditions we see in this country. From the pictures I've seen, and the comment from the surveyor that the skylight appeared to be 100 years old, I think the skylight seems to have reached the end of its useful life and the storm merely highlighted existing issues it had. I can see the cast iron surround is badly rusted and isn't 'flush' to the roof tiles. One of the panes of glass appears to be cracked and the edge where the glass sits in the frame appears rusted and degenerated. So I think the damage to the skylight can reasonably be attributed to wear and tear rather than the storm. Damage caused by wear and tear is excluded under the policy so I don't think AXA has unreasonably declined this aspect of Mr R's claim.

Nor do I think that mortar deterioration can be fairly said to be the type of damage a storm would cause. That is damage that occurs over a long period of time. So I don't think that the leaking skylight or the mortar deterioration that AXA's surveyor reported (to the parapet, ridge tiles and chimney) can reasonably be said to be consistent with the type of damage a storm typically causes. So the answer to the second question is 'yes' to the damage to the tiles but 'no' for the leaking skylight and mortar deterioration.

AXA initially said to Mr R that there was evidence of storm damage to the roof noted from the drone survey. It then appointed a surveyor to undertake a cause of damage report, patch repairs and an estimate for the internal repairs required as a result of the water ingress. AXA's surveyor is the only expert to have inspected the roof, consequently it wouldn't be reasonable of me to disregard what he reported to AXA. And, as I've set out above, he noted a small number of tiles had been dislodged. Given there had been storm conditions, that this is the type of damage normally associated with that which is typically caused by a storm, the locality of Mr R's home (it was three stories high, on a hill and close to the coast) and the fact the roof appears from the photographs to have been reasonably well maintained, I think that the storm can reasonably be said to have caused the damage to the tiles.

But AXA's surveyor, other than noting that there were a few slipped tiles, makes no further comment about this aspect of the damage. So whilst it wasn't unreasonable for AXA to have declined other aspects of the noted damage, I don't think it has reasonably declined to accept that the storm, more likely than not, caused a few of the tiles on Mr R's roof to have slipped. It follows that I think it needs to settle this aspect of the claim.

Turning now to the internal damage, I can see that AXA has declined to cover it. Its surveyor reported that most of the (internal) damp issues have been caused by the mortar deterioration I've set out above. In the absence of any expert evidence to the contrary, I can't fairly ignore what he says about this. That wouldn't be reasonable.

Having reviewed Mr R's policy schedule, I can see that AXA provided cover for his buildings but his policy didn't include additional accidental damage cover. If additional accidental damage cover has been selected by a consumer then this service can require an insurer to consider any internal damage under this part of a policy – even where a storm claim has been declined. Without this cover though, I'm unable to consider the internal damage Mr R's property experienced under this section of the policy. That means that, for me to make AXA settle Mr R's claim for the internal damage caused by the ingress of water to the bedrooms, I would have to be satisfied that it was predominantly caused by the storm. Unfortunately for Mr R, I'm not so persuaded.

I say that because AXA's surveyor has said the damp issues are the result the mortar deterioration he noted. I've explained above why I think this damage wasn't caused by the storm. As I think it wasn't, it follows that any secondary damage the mortar deterioration caused isn't covered either. I've seen no evidence that the internal damage was the result of the few slipped tiles damaged by the storm. I think it's reasonable to find that the internal damage was the result of the pre-existing issues with the mortar highlighted, rather than caused by, the storm. So, with regret for the disappointment I know this part of my decision will cause him, I don't think I can reasonably require AXA to settle Mr R's claim for the internal damage to his home.

I know that Mr R has said that AXA's surveyor was inadequate and that it should send out another one but I can't agree. The surveyor's comments about the cause of damage and the condition of the roof are supported by the photographs I've reviewed. So there's no reasonable grounds for me to require it to send a second surveyor out. I think AXA has done all it reasonably needs to do to assess what's damaged Mr R's home. And I can see too that it's invited him to get his own expert report into the cause of damage if he wants it to review his claim; that seems reasonable to me. I know that Mr R says he can't see the point of that as he can't see how it would change anything. But if Mr R was to get a report that credibly explained why the damage to the skylight and mortar deterioration was the result of a single identifiable storm event, then AXA has said it would review it.

In summary, in relation to the storm claim, I think that AXA has unfairly failed to settle the part of Mr R's claim related to the slipped tiles But I don't think it's unfairly declined all the

other aspects of this claim on the grounds that the damage was the result of wear and tear which was excluded under the policy terms. It follows that I think it should settle Mr R's storm claim for the slipped tiles

Underground drainage claim

I've set out above, in some detail, the sequence of events surrounding this claim. AXA agreed to Mr R getting his own quote and, from the evidence I've seen, the difficulty in sending it in doesn't appear to have been the fault of AXA. And once it did receive it AXA noted that there'd been a CCTV survey of the damaged drain. Not unreasonably, AXA wanted to validate the claim so asked Mr R for a copy of the survey. When that wasn't forthcoming AXA closed the claim and treated it as withdrawn. I don't think that was unfair. Insurers must be allowed to validate the claims that are brought to them and I'm satisfied from the evidence I've seen that this was what AXA was trying to do. I can see that it gave Mr R every opportunity to comply with its request for assistance in doing so. It follows that I don't think it unreasonably declined this claim when the information it sought wasn't forthcoming. Whilst I appreciate that Mr R disagrees, I don't propose to make AXA do anything more in respect of this claim.

Policy renewal

I can see that Mr R's policy renewed in early January 2020 and that AXA sent him a renewal pack inviting him to renew for another year a few weeks before that. I can see the premium had almost trebled.

Prior to either the drainage or storm claims being formally declined, Mr R had decided not to proceed with the renewal terms offered by AXA and had secured cover from another provider in the market, presumably at a cheaper price to that being offered by AXA. As part of his complaint to AXA about the claims though, Mr R said that he thought his decision to decline AXA's renewal offer had led to it deciding to decline his claims. I've seen no evidence that this is what happened.

The risk of insuring Mr R's home is AXA's to take on so it will decide how to assess it and will charge a price accordingly. Each year, AXA is entitled to reassess its risk factors when setting the price of its policies. So, prices can go up or down, depending on what it thinks the risks are that year for all of its customers. We won't normally say whether a product represents good value for money. And we generally accept that insurers can charge what they like for insurance so long as they act fairly. In simple terms, that means that they should apply their chosen pricing model consistently provided the consumer has flexibility to shop around and change insurer if they wish. I can see that at the point the renewal price offered became unacceptable to him that is what Mr R has done. So, I'm satisfied that's the case here.

Unauthorised access by contractor

Whilst I don't know the circumstances of what happened, it's my role to decide whether AXA treated Mr R fairly and reasonably when he raised his complaint about one of AXA's contractors gaining access without his authority; I think it did. I can see that it took Mr R's concerns very seriously and asked him to provide the evidence of the trespass he said he had – CCTV and a police report – and it would review it. I think that was a fair and reasonable approach for AXA to have taken to the allegation Mr R made; it couldn't know for sure what had happened but asked Mr R to share the evidence of the incident he had with it. Unfortunately I can't see that Mr R ever did share the evidence with AXA so it was unable to review it or take any further action. I think AXA's offer to investigate further, on provision of the evidence, was a reasonable response to this complaint. I'm not going to make it do any more.

Compensation

All insurance claims, by their very nature, attract a certain level of inconvenience; that's to be expected. But where an insurer, through its words or actions, makes an already stressful situation worse, then this service can require it to pay a consumer some compensation.

Here I can see our investigator recommended that AXA pay Mr R compensation of £400 because Mr R had been left in his property with a leaking roof and worsening internal damp leading to him suffering from chest infections. Our investigator thought that AXA's decision to decline the storm claim in full impacted Mr R and his family and left them in unpleasant living conditions.

As I've set out above, I do think that AXA unfairly declined to settle the aspect of the storm claim relating to the damaged tiles. But I've seen no evidence that a few slipped tiles caused the internal damage reported by Mr R. As I've said, I don't think the rest of the damage was caused by the storm. That means I'm unable to agree that the unpleasant living conditions were the result of any failing on AXA's part. They were the result of the leaking roof which, in turn, was the result of wear and tear.

I do think that AXA's handling of the claim and its failure to accept the part that was covered by the policy has caused Mr R some inconvenience though. And whilst it is likely that I wouldn't have awarded as much as £400 in compensation, I note that AXA has accepted our investigator's findings in this respect on the grounds its actions caused Mr R 'material inconvenience'. That being the case, I don't propose to alter the amount of compensation AXA is required to pay to Mr R.

I've noted Mr R's more recent comments that he was seeking an increase to the amount of compensation because AXA had caused a delay by not accepting our investigator's findings meaning he and his family had been left without full use of the property and consequential health issues. And I've noted that his comments that his photographs of the internal damage show that repairs are urgent. I don't disagree that the photographs indicate that the repairs are urgent but I can't agree that AXA is liable to undertake them. And AXA is entitled to ask for a complaint to be referred for an ombudsman's decision so it's not done anything wrong by declining to accept our investigator's findings.

Miscellaneous

Mr R says he's recently found a crack in kitchen. He says he's told AXA but it's done nothing about it. I can't see that Mr R has raised a complaint with AXA about this issue so I'm unable to look at it for him here. If he wishes to complain about it he must first do so to AXA directly so it may have the opportunity to investigate it.

I've thought about too about Mr R's comment that AXA's has withheld information but I've seen no evidence that it has.

My provisional decision

My provisional decision is that I intend to uphold this complaint in part and require AXA Insurance UK Plc to settle Mr R's claim for storm damage to the slipped tiles on his roof and to pay him compensation of £400 for the inconvenience its decision to decline this aspect of his claim caused him."

AXA hasn't provided a response to my provisional decision. Mr R replied on the same day the provisional decision was sent to him and said that he thought it contained large

inaccuracies. He also said that he needed longer to reply than we had given him. He said that information he'd given us and AXA had been mis-recorded and lost and that he would provide his full statement to us as soon as possible.

Our investigator responded to say that no information Mr R had provided had been lost or mis-recorded. She also said that she'd spoken to me and that I'd agreed he could take a further week to provide his response. Mr R replied to say that he would respond in full highlighting where he believed information had been lost or misunderstood. He said he also wanted an update on AXA's response. Mr R also said that the provisional decision downgraded the severity of his situation and had failed to fully assess the extent of what had happened. Specifically he mentioned the window in the roof which, he said, was nowhere near the area in question. He said the roofer that attended wasn't a surveyor. And he also said he'd provide a report from his own assessment of the roof from the time he first reported the issue.

A couple of weeks after providing these comments, Mr R contacted our investigator to ask if AXA had replied and what it'd said. Our investigator said it hadn't. A week and a half after that Mr R again asked our investigator if AXA had replied and what it'd said. He also said there had been some ill health in his family (which Mr R said he was able to evidence) so he was requesting a further extension of time to respond. Mr R also said he would be happy if we could assist in resolving the situation with AXA but if we couldn't he would pursue legal action.

Having referred Mr R's request for more time to respond to me, I agreed with our investigator that he could take a further week. Regrettably that wasn't conveyed to Mr R until a further week had passed, however, another week has passed since then so I'm satisfied that Mr R has been provided with sufficient time – 5 weeks – in which to respond to my provisional decision should he have wished to do so. I also asked our investigator to ask Mr R to provide the evidence about the ill health in his family that he had offered. Our investigator explained to Mr R too that indefinite extensions couldn't be given as we had to be fair to both parties and it was unfair to make one party wait indefinitely for a final decision.

The complaint was returned to me for 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.

Five weeks has now passed since I issued my provisional decision – I think that's a reasonable time period to allow further comment should either party want to provide any. Unfortunately the full response Mr R intimated would be provided, along with the report from his own roofer, has not arrived and there's no indication when it might do so.

Mr R hasn't explained what inaccuracies he believed my provisional decision contained but I repeat here what I said provisionally, which is that I looked at all the evidence provided when making my findings. As our investigator explained, all documents we receive are scanned to our electronic filing system in the format in which they arrive so they cannot be mis-recorded or lost. And all the documents provided by Mr R and AXA have been reviewed by me.

It is an unfortunate fact that at least one party to a dispute – and sometimes both – will be unhappy with the outcome reached and the reasons given as to why. That is an inevitable consequence of the service we provide. And of course I can appreciate why my provisional findings came as a disappointment to Mr R but I explained provisionally why I reached the conclusion I did. As Mr R never provided further comment to highlight the inaccuracies he

believed my provisional decision contained, I'm simply unable to comment any further about this issue.

I would like to reassure Mr R that all the evidence provided by both himself and AXA has been fully assessed by me. I'm afraid I don't understand his comment about the window in the roof not being in the 'area in question' so I'm unable to provide a comment in response. Mr R has said that AXA's expert wasn't a surveyor but was a roofer – but I've seen no documentary evidence in support of this statement. From the evidence I've seen, I think AXA sent out appropriately qualified individuals to assess the damage Mr R had reported.

As our investigator explained, we are here to look at individual consumer complaints that are referred to us and to decide if a business has been fair and reasonable in the way it has dealt with a consumer. For the reasons I gave provisionally, I think that AXA didn't treat Mr R fairly and reasonably in relation to part of his complaint. But nothing that Mr R has said in response to my provisional decision has caused me to change my mind about the findings I made. Those provisional findings now form part of this, my final decision.

Putting things right

In order to put things right for Mr R I think that AXA should settle his claim for storm damage to the slipped tiles on his roof and pay him compensation of £400 for the inconvenience its decision to decline this aspect of his claim caused him.

My final decision

My final decision is that I uphold this complaint in part and require AXA Insurance UK Plc to take the steps I set out in the '*putting things right*' section above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 14 April 2022.

Claire Woollerson
Ombudsman