

The complaint

Mr and Mrs S complain that AXA Insurance UK Plc has treated them unfairly with the decision made and handling of their claim on their buildings insurance policy.

What happened

Mr and Mrs S have a residential landlords insurance policy which is underwritten by AXA.

In August 2021 Mr and Mrs S raised a claim under their insurance for damage caused to their property. The damage occurred before this date and they attempted to repair it, but they felt the extent of the damage meant they'd need to rely on their insurance. Mr and Mrs S say the damage was caused by the previous tenants who vacated the property without notice.

After the claim notification, AXA instructed its loss adjuster to review and assess the level of damage, this was because of the expected value of the claim. Mr and Mrs S confirmed that some works had already been completed when the loss adjuster attended the property as they'd been attempting to put things right so it could be re-let or sold. A large amount of damaged was caused to the property including:

- Broken floor tiles.
- Damaged carpets and appliances.
- Taps pulled from the walls and holes in the walls.
- Rubbish left inside and outside the property.
- The septic tank had overflowed.
- Damage from a leaked shower.

Mr and Mrs S also claimed for a number of months lost rent as a result of the property not being able to let.

AXA didn't think the damage claimed was the result of an insured event and didn't accept the claim. Mr and Mrs S complained about its claims decision and how the claim had been handled. AXA issued its final response on 12 January 2022 and said it was sorry that it took as long as it did to give it's outcome to the claim. The decision to decline this wasn't provided until 18 November 2021, some months after the claim notification.

AXA said it was sorry that its loss adjuster hadn't been clearer in the first instance on the reasons for repudiating the claim. It felt had this happened there would have been less confusion. But it maintained that the decision to repudiate the claim was correct and it didn't agree there was any error made. It said it had relied on expert evidence to decline the claim for the cracked tiles and that with multiple areas damaged throughout the house, all would be individual claims with individual excesses. It acknowledged that it could have been

clearer in the response and awarded £50 to say sorry for this and a further £25 to reflect the delays in it responding to the claim.

Our investigator looked at Mr and Mrs S's complaint. She agreed, for the most part, that AXA's claim decision was fair. She felt AXA had been fair when considering the information provided about the cracked floor tiles and the damaged was declined inline with the policy cover. But she felt it was fair AXA reconsider the damage to the shower and the leak with this. She hadn't been provided with anything from AXA to show why this wasn't covered under the policy. She said if Mr and Mrs S had already paid for this repair, she'd expect AXA to include 8% interest on the cost of the policy.

She said some contents items had been claimed for under the policy, but as the policy was for the buildings only, this wasn't covered. She said that some things claimed would fall under the properties general maintenance and wouldn't be covered either.

Mr and Mrs S disagreed with the outcome. They accepted not all of what had been listed as needing fixing or replacing would be covered – but the details of everything were provided to give a full picture of what happened. They didn't think the expert report relied on by AXA or our investigator was sufficient evidence to show the floor tiles were not laid correctly. They said the information relied on and conveyed within the report was provided by them – Mrs S had provided information to support how the tiles were laid. They felt the photos could not have provided the information quoted based on a desk top assessment.

They also highlighted that the bulk of the information they'd submitted had been lost due to an admin error by AXA and its loss adjusters administrator – this had been accepted by AXA in its final response to the complaint. They didn't think it was fair that in the absence of this, the claim was being repudiated. They felt the information being removed could be tantamount to gross insurance fraud and blaming home working and Covid 19 for this wasn't acceptable.

AXA hasn't provided a response.

Because Mr and Mrs S didn't agree, the complaint has been passed to me for 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.

The crux of this complaint is whether AXA has acted fairly when declining Mr and Mrs S's complaint. And at the centre of this, whether the information they've relied on, or been able to rely on would have likely changed the outcome. Allegations of fraud are extremely serious and while I understand why Mr and Mrs S are upset about information being removed from the portal, I've not seen anything to suggest this isn't the result of an admin error as explained.

Mr and Mrs S's policy, like all insurance policies has a number of exclusions which limit the cover available. This includes the common exclusions of wear and tear. Relevant to this complaint and the damaged floor tiles is the exclusion of damage relating to poor workmanship, including damage relating to inherent defects. Our investigator set this term out in her view so I've not quoted it again. AXA argue that from the evidence it has been provided, the cause of damage to the floor tiles as likely the result of them not being fitted with sufficient room for expansion with the heat of the underfloor heating system. It has relied on expert evidence compiled via desk assessment.

Both AXA and Mr and Mrs S are aware of the contents of this report so I see no reason to quote it here. But in short, it supports the view that the floor tiles were not fitted correctly and this has resulted in the damage.

Mr and Mrs S received a number of quotes to have the tiles replaced. Their contractor said they believed the damage to be consistent with accidental damage with it being likely that something large had been dropped on the tiles causing them to crack.

The work on the property had started before AXA let Mr and Mrs S know that it was not intending to provide cover for the floor tiles or the rest of the claim. As a result, a further inspection could not be arranged to determine the likely cause of damage. And photos previously taken and uploaded to the portal had been removed in error.

Taking the above into account, I understand the frustration Mr and Mrs S have over the claim decision and their feeling that this has been based unfairly on a lack of information. It certainly isn't ideal that information submitted and uploaded has been lost part way through. However, I don't think this means that the decision reached isn't fair or reasonable. The number of tiles with damage indicates that either, a number of accidents occurred with something being dropped on the tiles a number of times, or that there was an inherent issue with the tiles. I think it is unlikely that so many tiles would be damaged accidentally and with no way of knowing how this could have happened with the tenants not being present to give their opinion on the cause, I've needed to think about what is most likely to have happened.

I understand the concerns Mr and Mrs S have about the expert report but I think the explanation given as the potential cause of the damage is persuasive. I think it is more likely, based on the extent and number of damaged tiles that, errors made in the installation of these, has resulted in the damage. And I don't think that AXA has acted unreasonably when relying on this as a basis of its claim's decision.

I think AXA could have been clearer when making this decision that it wasn't guaranteed to cover the damage until it had properly considered the claim. In not doing this Mr and Mrs S's expectations were not managed and they instructed work to start when expecting AXA would cover the costs. They would have always needed to have covered the repair costs themselves when the claim was declined, but I think it is fair that AXA recognised the impact of it's failing here with its award for distress and inconvenience caused.

Our investigator said that she felt it was fair for AXA to consider the part of this claim relating to the leak in the bathroom. AXA had failed to provide anything to support why it hadn't covered this. So in the absence of anything to confirm it had made a fair claim decision, she asked that it reconsider and pay this. If Mr and Mrs S had completed the repairs previously, she asked that it pay 8% simple interest on top of this amount.

To date, AXA has still not provided a response on this to our service, so in the absence of anything for me to consider, I agree that AXA hasn't demonstrated it's made a fair claims decision on this point and it should reconsider and pay this element of Mr and Mrs S's claim.

Mr and Mrs S's tenants left the property without notice and it was clear the property was not in a good state of repair following their departure. Mr and Mrs S undertook to try and complete all of the remedial works themselves and I think this indicates that for a point at least, they didn't believe the damage to be consistent with something covered under their policy. I've not seen anything else which persuades me AXA has acted unfairly with how it has handled the other items of damage claimed for on this complaint and I don't think it needs to do anything, beyond reconsidering the claim for the shower leak.

Putting things right

AXA should reconsider and pay for the damage caused by the shower leak in Mr and Mrs S's property.

If Mr and Mrs S have completed these repairs at their own expenses, on receipt of the invoices for the work, AXA should include 8% simple interest* on this payment from date of payment until date of settlement.

*If AXA feels it needs to deduct tax from this payment, it should upon request from Mr and Mrs S, provide a statement to confirm what has been deducted.

With Mr and Mrs S needing to complete a number of other repairs on the property, I think it is unlikely it would have been able to be re-let ahead of these being completed. But, AXA should consider whether it is appropriate to pay an element of lost rental income when considering the claim for the shower leak.

My final decision

For the reasons I've explained above, I uphold Mr and Mrs S's complaint against AXA Insurance UK Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S and Mr S to accept or reject my decision before 27 September 2022.

Thomas Brissenden
Ombudsman