

The complaint

Mr and Mrs M complain that AXA Insurance UK Plc (“AXA”) has unfairly handled a subsidence claim made under their buildings insurance policy.

What happened

The background of this complaint is well known to both parties, so I’ve summarised events.

- In January 2018 Mr and Mrs M made a subsidence claim.
- AXA accepted the claim and appointed loss adjusters (Company A) and repair works were completed in August 2019.
- There was a dispute between parties around this time about the extent of the works. AXA said it would only repair parts of the home that were damaged by subsidence. Mr and Mrs M eventually agreed and appointed the same contractor (Person H) used by AXA to complete repairs to other parts of the property.
- Mr and Mrs M have since appointed a building surveyor to inspect the works. These suggested the repairs completed by Person H were not effective and of poor quality.
- Our Investigator directed AXA to revisit the property and redo any necessary repairs, including those carried out privately by Person H. As well as refund the cost of the report Mr and Mrs M had obtained, and £200 compensation.
- Mr and Mrs M agreed. And AXA agreed to all recommendations, except to cover any private works. It said this was a separate contract between the consumer and Person H outside of the claim. In light of its comments, our Investigator looked again and agreed AXA shouldn’t be required to cover any private works.
- Mr and Mrs M disagreed, saying that they’d hired Person H on the basis he would be professional and competent as AXA had appointed him already. And that having a separate contractor would create a difficult situation of two tradespeople working on essentially one job. They also argued an email from Person H suggested they had a three-year guarantee instead of a one-year warranty they were later told about.

So, the complaint has been passed to me for an Ombudsman’s 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.

Having done so, I’m upholding this complaint. And for the same reasons given by our Investigator previously.

AXA has agreed the works completed by its agent Person H were not of the required standard. And it has agreed to cover the necessary repairs that fall under this claim. It has also agreed to compensate Mr and Mrs M £200.

So, the subject that remains in dispute is whether AXA should be liable for the repairs that Person H completed outside of the contract of insurance in a private arrangement.

I wouldn't typically expect an insurer's liability to extend to works carried out under a separate contract. And taking into the circumstances here, I don't consider what's happened here to be an exception to this.

I understand Mr and Mrs M have said they felt compelled to use Person H in light of what they considered to be AXA's apparent endorsement. But it ultimately was still completed as a separate contract between parties. Simply meaning the contract Mr and Mrs M have for the works outside of the claim are between them and Person H.

While I understand the situation, I don't think AXA's use of Person H means that Mr and Mrs H were forced to use this contractor. Nor do I think AXA's use of Person H for insured works means it should be responsible for wider works completed by him outside of the claim.

Within the contract for private works with Person H, Mr and Mrs M will have had their own rights to complain or take legal action for losses they believe they've been caused. These aren't for me to comment on as this sits outside of the scope of this Service or the complaint against AXA I've been asked to consider.

Mr and Mrs M have also commented on the warranty/guarantee they've been provided. But again, any discussion about this warranty or guarantee is between them and Person H, and not AXA. So, this doesn't change my mind.

My final decision

For the above reasons, I'm upholding this complaint. AXA Insurance UK Plc must:

- Complete the necessary repairs for all of insured works;
- Refund Mr and Mrs M the cost of the report they obtained on receipt of an invoice;
- Pay Mr and Mrs M £200 for the distress and inconvenience caused.

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

Jack Baldry
Ombudsman