

The complaint

Mrs P complained about how her claim was unfairly settled under her home insurance policy with AXA Insurance UK plc ("AXA"). Mrs P was represented at times by a family member during the complaint, but for ease and simplicity, I will only refer to Mrs P.

What happened

Mrs P noticed a leak coming from her bathroom on the first floor of her property and she approached her home emergency insurer for support. There were some issues getting the leak resolved, which meant the damage worsened and Mrs P's kitchen collapsed as a result which was located directly below the bathroom. Mrs P felt vulnerable at this time due to her own personal circumstances.

Mrs P made a claim to AXA for the damage caused by the escape of water. AXA appointed a loss adjuster to assess the damage and validate the claim. Initially, the loss adjuster said AXA would contribute £771 towards the damage of the kitchen ceiling which it said was caused by a leak to the toilet cistern. However, it said the rest of the damage wouldn't be covered as it was caused by the condition of the sealant around the shower.

Mrs P challenged the loss adjuster's opinion. AXA reviewed the evidence and decided to cover all the damage. Mrs P said she had chosen some higher end goods and was quoted £9,425 to have the repairs completed. However, AXA said it would be willing to cover £3,850 of costs before the excess was applied. AXA said, *"we can only pay for items covered under the claim and cannot cover the costs towards some replacements"*.

Mrs P said AXA's offer wouldn't even cover the labour, even if she only replaced the necessary items in the bathroom [rather than upgrading some items to higher end goods]. Mrs P feels she has been financially impacted, and she has found the situation stressful due to her personal circumstances at the time.

Our investigator decided not to uphold the complaint. She didn't see any evidence that persuaded her that AXA's appointed expert hadn't been fair in deciding which work was necessary following the leak. Our investigator thought AXA had settled the claim in line with its terms and conditions. Mrs P disagreed, so the complaint has been referred to an ombudsman.

My provisional decision

I issued a provisional decision on this on 3 March 2022. I said:

"Buildings insurance policies are generally policies of 'indemnity'. That means AXA should aim to put Mrs P back in the position she was in just before the loss or damage happened. Taken literally, that means putting Mrs P back in the exact same position."

AXA should try to do that. But sometimes it's simply not possible. And for some policyholders it doesn't need to be exactly the same – a reasonable settlement for them is one that puts them into a broadly similar position to the one they were in."

I've started by reviewing what AXA's approach is to settling claims, the policy states "we may repair, reinstate or replace the damaged property. If we cannot replace or repair the property we may pay for the loss or damage in cash or cash alternative (including vouchers and/or store cards). Where we can offer repair or replacement through a preferred supplier, but we agree to pay a cash or cash alternative settlement, then payment will not exceed the amount we would have paid the preferred supplier".

Mrs P was unhappy that AXA didn't provide her with the option for AXA to arrange and carry out the works for her. Given her vulnerable circumstances at the time, Mrs P said if this offer was made to her she would've found it helpful. I've considered this. I can see from the spreadsheet Mrs P provided, that the scope of works that Mrs P wanted was wider than to simply repair the damage from the leak. It's common in the insurance industry, where part of the works is for repairing / reinstating the damage and part of the works falls outside of the policy that the insurer offers a cash settlement. I know Mrs P was in a vulnerable situation, but I don't think it's reasonable for her to expect AXA to take on work that the policy didn't cover. As this isn't its responsibility. It also doesn't make sense in practical terms for AXA doing the specific scope covered by the policy and asking Mrs P to get another contractor to do the other works. Therefore, I do think AXA has been fair in offering a cash settlement.

However, I would expect the cash settlement offered by AXA to be fair and to indemnify Mrs P from her loss. Mrs P had a quote for all the works she wanted, which included the areas of damage and some other items which she recognised as betterment (i.e. improvements that she wouldn't be expected to be covered by the policy).

I've considered what AXA said about its cash settlement. AXA said "we reviewed the damaged areas and our inhouse buildings team put together a schedule of works, to confirm what areas are covered. I understand this was emailed to you on 22 July. The cost of this came to £3,850.00. With your £350 excess deducted, a payment was raised for £3,500.00. Whilst I appreciate our settlement cost is lower than your quote, we can only pay for items covered under the claim and cannot cover the costs towards some replacements. The email sent on 22 July clearly provides a breakdown of how we have arrived at the settlement figure".

I can see AXA has shown against Mrs P's quote which areas it is willing to cover with the settlement and which areas it isn't. I reviewed the items that Mrs P has disagreed with. I didn't think AXA was fair in its approach to some of these items, so I asked AXA to re-consider its offer in relation to these points. AXA did review its offer and decided to increase its offer to £4,566.19 (before the policy excess). However, Mrs P didn't accept AXA's revised offer.

AXA said "materials wise, [the policyholder] is quoting for a new bathroom. The WC is not covered as [this] was the leaking item. Also, the shower pack - showers are easily removed and refitted. I have contributed to the enclosure, as there is always chance that can be damaged. But the customers estimate again was inflated for what it is. Regarding the labour, I have uplifted some of these to cover fully. The biggest difference being installing the plasterboard, they have £600, this should not take more than half a day to board as we have covered the strip outs elsewhere. They have changed from wall panels to tiling, materials wise will be similar, but tiling is a lot more labour intense. So, I haven't fully covered this cost. The total comes to £4,566.19. I don't feel it justifiable to uplift works any further".

I have considered the revised offer from AXA and I think it's fair. However, as this is an increase from the investigator's decision, I will be making a provisional decision where I intend to uphold this complaint. I'll explain why I think AXA's revised offer is fair.

I think AXA has been reasonable in not allowing any costs for the WC as these wouldn't be covered by the policy. The policy only covers Mrs P for the damage caused by the leak, and not for fixing or replacing the products that caused the leak. I haven't seen any evidence to show the old shower had been damaged by the leak, so I think AXA has been reasonable in concluding the old shower could've been easily removed and re-fitted. I appreciate Mrs P may have wanted a new shower to complement the rest of her new bathroom, but the policy only provides cover for replacing damaged items. So, I don't think AXA has been unfair by not allowing these costs. I think AXA has tried to be fair by allowing the costs for a new shower enclosure, when it wasn't clear the old one was damaged. I think AXA's revised offer has taken onboard the comments I made to it, and now reflects a fair offer for the labour element required to repair the damage in the bathroom and kitchen.

Therefore, I intend to uphold this complaint. I intend to require AXA to settle the claim in line with its revised offer (£4,566.19 before excess). I don't think AXA's offer has delayed Mrs P getting her bathroom completed. However, I do think she will have suffered a small amount of distress, as the original offer from AXA left her with a financial shortfall. Therefore, I intend to award £100 compensation for this".

Responses to my provisional decision

Neither AXA nor Mrs P responded to my provisional 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.

Given neither party has provided any new information, I see no reason to change my provisional decision.

My final decision

My final decision is I uphold this complaint, I require AXA Insurance UK plc to pay Mrs P:

- £4,566.19 less the policy excess (in line with its revised offer). If AXA, has already paid part of this settlement, then it should only pay the remaining balance.
- £100 compensation – for the distress and inconvenience the original offer caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 2 May 2022.

Pete Averill
Ombudsman