

## **The complaint**

Mr and Mrs C's complaint is about AXA Insurance UK Plc's decision to turn down a claim made under their home insurance policy.

All references to AXA include its appointed agents.

## **What happened**

The circumstances of this complaint are well known to both parties and have been summarised by our investigator, so I won't repeat them again here. Instead, I'll focus on giving the reasons for my 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 agree with the conclusions reached by our investigator for these reasons:

- AXA has attempted to resolve the matters raised by Mr and Mrs C by offering them £350 compensation for the distress and inconvenience caused. Having reviewed the compensation offered, I agree that this is a fair and reasonable amount in the circumstances. So, what I'm focussing on below is AXA's decision to turn down the claim for water damage to the property and its contents.
- AXA's position is that Mr and Mrs C haven't shown there's an insured event for the policy to respond to. It says that following investigations, it is as likely the damage was caused as a result of damage over time (because of the presence of mould), or a structural defect within the property (such as inadequate, or failed tanking of the basement). So, AXA says the onus is now back on Mr and Mrs C to prove an insured event happened.
- Mr and Mrs C's position is that the water found in the property has been identified as rainwater, which is linked to a sudden and severe downpour around July 2021. They've provided photos of the damaged area before the water entered, which show no mould. And photos of mould appearing just one week after the event. They say they've never had any issues of water ingress previously, having lived there for around nine years. And that no structural issues with the rooms were highlighted when they bought the property.

- AXA says Mr and Mrs C's claim doesn't meet its definition for "Flood" under the policy, defined as, "*Sudden release or rapid build-up of water from outside the Home or Outbuildings entering into the Home or Outbuildings*". It says that for heavy rain to be considered under the flood peril, it has to be a one-off event where the property floods because the drains can't cope.
- I've checked the remainder of the policy terms and exclusions, and I can't see anything which states that the drains need to be overwhelmed following rainfall in order for a flood claim to succeed. And based on the circumstances of this case, I'm persuaded Mr and Mrs C's claim does fall under the policy's broader definition of "Flood", and they've done enough to show this.
- Therefore, I don't think it's reasonable for Mr and Mrs C to be required to show exactly *how* the water ingress happened in order for the claim to succeed. Essentially, it's been shown the water originated from outside the property and found its way in (and this point has never been in dispute). And further, the weather records and news reports from the time show evidence of localised flooding due to rainfall.
- I'm not persuaded by AXA's comments about the mould showing gradual damage either. From everything I've seen, it seems more likely the mould appeared due to AXA's initial delay in responding to the claim. I say this because AXA's contact notes show that Mrs C raised her concerns about mould appearing within a few weeks of raising the claim. And the loss adjusters' conclusions regarding mould and gradual damage were made around October 2021 – some months after the initial claim was raised. Further, I'm persuaded by Mrs C's evidence which shows the room was mould free prior to the claim.
- I note AXA's concerns regarding possible issues with tanking in the basement. But even if this turns out to be the case, it wouldn't be reasonable for it to turn down the claim. I say this because in line with our service's general approach to gradual damage, I've not seen anything to show that Mr and Mrs C should have been aware (or ought reasonably to have been aware) that there was a problem. I'm persuaded by their testimony; that something of this nature had never happened before (or since); the property remained dry; and the affected rooms haven't been altered since they bought the property.

For these reasons, I uphold this complaint.

### **My final decision**

My final decision is that this complaint is upheld. In order to resolve Mr and Mrs C's complaint, AXA Insurance UK Plc should accept the claim under the Flood peril.

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

Dan Prevett  
**Ombudsman**