

The complaint

Mr B complains about AXA Insurance UK Plc's decision to turn down a claim for an escape of water made under his home insurance policy.

What happened

AXA turned down Mr B's claim because it said the claim needed to be directed either to the insurers of the managing agent, or to the managing agent itself.

Mr B didn't agree so referred the complaint to our service.

Our investigator looked at everything and recommended the complaint be upheld. They concluded that AXA should reconsider the claim as Mr B had already approached the managing agent, and there was no other better suited insurance to meet the claim.

AXA didn't agree. In summary it said:

- It had paid a previous claim for Mr B under a different policy, but this had been in error, so it didn't consider this would set a precedent for future claims.
- The lease covering Mr B's property indicates the management company is responsible for insuring the property against an insured risk (including escape of water).
- The management company are responsible for arranging the policy excess (in this case £15,000 for escape of water claims) and for dealing with the claim, so it would be unfair for AXA to pay out on the claim just because a high excess policy has been selected.

I attempted to resolve the matter informally. Having reviewed the evidence, I concluded:

- AXA's policy was effectively the only one offering cover to Mr B in the circumstances of this particular claim.
- Mr B had followed reasonable steps with regard to the lease agreement and acted reasonably by checking the other policy.
- That AXA should deal with Mr B's claim subject to the remaining terms and conditions of the policy and pay £100 compensation for the distress and inconvenience caused.

AXA disagreed and said in response:

- That in effect, the management company are the appointed representative in this instance and act on behalf of Mr B
- That I was suggesting Mr B had taken out an excess protection policy with AXA, given the £15,000 excess on the block policy.
- The risk is covered under the block policy and so the exclusion relating to “*property more specifically insured by you or on your behalf*” fairly applies here.
- It makes it clear at the point of sale, that when the property in question is an individual flat, the insured should check whether there is a block policy in place.
- The policy appears to have been arranged in error by Mr B, and AXA was considering what it was insuring and whether it was adequate.

As the matter remains unresolved, I’ve considered all of the additional points AXA has raised when reaching my 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 remain persuaded that AXA’s policy should respond in the specific circumstances of this claim. I’ll explain why below.

- In the specific circumstances of this claim, and having considered his obligations under the lease agreement, I cannot conclude that Mr B has acted unfairly or unreasonably. So, it follows that if AXA were to also turn down the claim, it would result in an unreasonable outcome for Mr B.
- Mr B’s shown that the value of this claim is unlikely to exceed £15,000. So, the block policy won’t respond in any event here. As such, it’s not a comparable policy by which I could consider any arguments about dual insurance. Mr B’s policy covers escape of water events, so AXA needs to accept the claim or provide a compelling reason not to.
- The AXA policy is in Mr B’s name only and he’s said he bought it to provide buildings cover for the flat. And it could be suggested that a policy covering a single flat is “more specific” than a block policy covering a number of flats.
- I’ve considered AXA’s evidence about the requirement for consumers to check whether a block policy is in place before they purchase a policy. And notwithstanding that this evidence is generic as opposed to what Mr B actually saw during the application process, it doesn’t tell me what the consequences were to Mr B as a result of not checking, or checking and proceeding to buy the policy for the flat in any event.
- For these reasons, whilst I’ve considered AXA’s remaining points, none of them persuade me that it can fairly turn down Mr B’s claim in this circumstance.
- As things stand, the policy is in force. AXA hasn’t made any argument to suggest Mr B misrepresented his circumstances, and it’s been shown that the policy is the only one which could respond to the claim. And Mr B bought it, paid for it, and is entitled to the cover it provides. So, I remain persuaded that the fair outcome here is for AXA to deal with the claim in line with the remaining terms and conditions.

For these reasons, I uphold this complaint.

My final decision

My final decision is that this complaint is upheld. In order to put things right for Mr B, AXA Insurance UK Plc must:

- Reconsider Mr B's claim subject to the remaining terms and conditions of the policy.
- Pay Mr B £100 compensation for the distress and inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 25 August 2022.

Dan Prevett
Ombudsman