

## **The complaint**

Mrs A has complained about the way AXA Insurance UK Plc dealt with a claim she made under her home and buildings insurance policy.

## **What happened**

Mrs A's garage was damaged when a neighbour's tree collapsed onto it. Mrs A made a claim to her insurer AXA. AXA accepted the claim. It said it would settle Mrs A's claim once the tree had been removed from Mrs A's property.

Mrs A made an arrangement with her neighbour to pay 50% of the costs to remove the tree altogether which came to £2,460. So Mrs A said she paid £1,230.

Mrs A told AXA that her neighbour's insurer settled their claim by reimbursing the neighbour for the 50% of the removal costs they'd paid. Mrs A believed AXA should do the same under her claim.

AXA said it wasn't responsible for covering any of the costs to remove the tree. It said this was the neighbour's responsibility. As a goodwill gesture AXA said it would make a payment of £500 to Mrs A to go toward the costs she agreed to share with the neighbour.

Mrs A was unhappy with AXA's decision and she was also unhappy with the service she'd received during the claim. So she made a complaint.

AXA didn't uphold Mrs A's complaint. It said it hadn't provided a poor service. And it said it had correctly dealt with her claim. So Mrs A asked us to look at things for her.

Our Investigator didn't find AXA had provided a poor service. But he didn't think the way AXA had settled the claim was fair to Mrs A. He thought AXA should ensure as part of the claim that effective and long lasting repairs are carried out. In order for AXA to do this, the tree had to be removed from Mrs A's property. So he thought it was unfair for Mrs A to bear the costs of the contribution she agreed to pay toward the removal of the tree. If AXA believes the neighbour as a third party is responsible for the costs to remove the tree, the Investigator thought it could look to recover the costs it reimburses Mrs A for from the neighbour's insurer.

The Investigator thought Mrs A had been impacted by AXA's decision not to meet these costs and this had caused her distress and worry. For this he recommended AXA pay Mrs A £100 compensation.

Mrs A accepted the Investigator's findings. AXA didn't agree. In summary it says Mrs A could have arranged for the part of the tree causing damage to her property to be removed for £500 or less. AXA says part of the agreed costs appear to be to remove the remainder of the tree from the neighbour's property which isn't something AXA is liable for. AXA says the neighbour arranged for the tree to be removed at the root which wasn't required in order to deal with Mrs A's claim and so isn't a cost AXA can look to recover from the neighbour's insurer.

AXA says its decision to pay £500 is fair as this is the amount it would have cost to remove the part of the tree from Mrs A's garage to allow repairs to take place under the claim.

So AXA wants an ombudsman to decide.

### **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.

I've looked at the notes of a call between the Loss Adjuster (LA) instructed by AXA and Mrs A on 4 March 2022. The notes read that Mrs A called to clarify the next steps of her claim. The LA's notes read:

*"agreed ph to get estimate for garage and then we will consider CBC for cost analysis and to review conservatory with look to offer a cash settlement for this.*

*Ph queried tree removal, - tree hasn't damaged neighbours property and therefore their insurance won't pay for it - advised not her tree so we cannot pay. Agreed tree removal not covered but we could look to offer a contribution for the trunk removal off the building only so that we can complete works, this wouldn't cover the tree to be cut and removed. £500 to be paid."*

It's not clear from the notes provided whether Mrs A had already agreed to pay 50% of the costs to remove the tree at this stage. But I cannot see from the information provided by AXA if the LA offered any assistance to Mrs A in arranging for the part of the tree that had damaged Mrs A's property to be removed in order to carry out repairs. It seems the LA asked Mrs A to provide quotes and was waiting for receipt of these with a view to making a cash settlement.

AXA says it would have cost Mrs A £500 to arrange for removal of the part of the tree needed in order to carry out repairs. But I don't think it fair that this was left for Mrs A to negotiate with her neighbour. I think the LA should have done more to assist in proactively settling the claim and carry out effective and long lasting repairs. I don't think it unreasonable for AXA to include the costs of removing the debris that caused the damage for a claim it accepted, rather than leave this for Mrs A to deal with outside of the claim.

We look at what is fair and reasonable as well as what the policy says. In this case, I think a fairer outcome is for AXA to reimburse Mrs A - subject to reasonable proof - in full for the costs she shared with the neighbour to remove the tree from her garage in order for AXA to settle the claim. I think it should pay interest on the reimbursed amount from the date Mrs A paid to the date it reimburses her.

I think AXA's decision not to do this has caused Mrs A distress and worry at an already stressful time. So I think AXA should pay Mrs A £100 compensation for the distress and inconvenience it caused.

### **My final decision**

My final decision is that I uphold this complaint. I require AXA Insurance UK Plc to do the following:

- Reimburse Mrs A for the remaining costs she shared with her neighbour to remove the tree so that repairs could take place - subject to reasonable proof.
- Pay interest on this amount at a rate of 8% simple interest a year from the date

Mrs A paid to the date AXA reimburses her.

- Pay Mrs A £100 compensation for the distress and inconvenience AXA caused.

AXA Insurance UK Plc must pay the compensation within 28 days of the date on which we tell it Mrs A accepts my final decision. If it pays later than this it must also pay interest on the compensation from the date of my final decision to the date of payment at a simple rate of 8% a year.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs A to accept or reject my decision before 29 September 2022.

Geraldine Newbold  
**Ombudsman**