

The complaint

Mr S and Mrs W are unhappy with the amount AXA Insurance UK Plc (AXA) has paid in settlement of a claim they made under their home insurance policy.

What happened

The details of this complaint are well known to both parties, so I will not repeat them again in full detail here. Instead I'll focus on the areas which remain in dispute, and which are key to delivering a fair and reasonable outcome.

But to briefly summarise, Mr S and Mrs W made a claim for an escape of water at their home. They appointed a loss assessor to scope out the required remedial works, manage their claim with their insurer – AXA – and to carry out the repairs once a settlement had been agreed.

The loss assessor submitted the claim and costs for repairs, based on its scope, to AXA. AXA didn't agree the proposed costs were reasonable, so appointed a loss adjuster and surveyor to create its own costed scope of works. The costs for this came in significantly lower than the loss assessor's proposed costs.

Following a dispute over the flooring included in AXA's scope, and the costs for storage, AXA increased its proposed settlement offer. Mr S and Mrs W remained unhappy and so appointed an independent chartered surveyor to review the scope of works and provide their opinion on the cost of the works – in the hope of breaking the deadlock.

The independent surveyor's report said costs for reinstatement was between the loss assessor's costs and AXA's. Mr S and Mrs W's loss assessor agreed to be bound by the opinion of the chartered surveyor and so agreed to carry out the works for the amount he suggested. But AXA maintained its view that the costs were still high and that its proposed costs were reasonable.

In its response to Mr S and Mrs W's complaint, AXA acknowledged that there had been avoidable delays and communication issues on the part of its loss adjuster. So, it offered £250 compensation. But it maintained that the settlement it had paid for the claim was fair. AXA later added a further £75 for further delays and communication issues since its final response letter.

Mr S and Mrs W brought their complaint to our service where it was looked at by one of our investigators. When AXA provided its complaint file to the investigator, it made an increased offer of £625 compensation for the service failings. But it said it had, had its loss adjuster's costs reviewed by one of its in-house surveyors who agreed they were reasonable. So, AXA maintained its position on the claim settlement decision.

Our investigator said the improved offer of compensation was fair for the service issues. And he thought AXA's claim settlement offer was fair and reasonable too. He said AXA's scope of works was based on a site visit rather than a desktop valuation, so he found it more persuasive that the independent surveyor's report. Based on this, he didn't recommend that AXA should increase the settlement.

As an agreement couldn't be reached, the complaint was passed to me to decide.

I was minded to reach a different outcome to our investigator. So, I issued a provisional decision, to give both parties an opportunity to comment on my provisional findings, before I reached my final decision.

In my provisional decision I said:

"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

As I understand it, previous disputes over the flooring, storage costs and some damp proofing works have now all been resolved. The only issues which appear to remain in dispute are the settlement amount and the level of compensation for the service issues. So, these are the areas I'll focus on below.

Settlement amount

From what I've seen, the scope of works required isn't in dispute, only the costs for carrying out that work.

Mr S and Mrs W's loss assessor first attended the property, scoped out the work required and provided its proposed costs to AXA. They said the works required would cost around £72,400. The loss assessor hasn't shared its rates with AXA, or our service, as it says they're commercially sensitive.

AXA's loss adjuster and surveyor visited the property and the surveyor created their own scope of works. They initially said the works would cost around £26,500. But this amount was eventually increased to around £32,900 when they accepted they'd included the wrong type of flooring and added additional storage costs. AXA says its scope is based on a mixture of Building Cost Information Service (BCIS) rates (which are set by the Royal Institute of Chartered Surveyors (RICS) and Symability (an AXA approved tool) costs – which are agreed rates with its contractors and which it says reflect the RICS national averages and market rates.

Given the dispute over the costs, based on the two parties experts, the loss assessor advised Mr S and Mrs W to appoint an independent chartered surveyor to review the available photos and scopes of work and to provide their opinion on the cost of carrying out the required works. The independent surveyor said the works would cost around £51,250. He said his scope was based on BCIS rates, knowledge of previous jobs and materials and labour rates.

AXA considered the independent report and costs and had them assessed by the loss adjuster and an internal surveyor. AXA maintained its view that the costs were too high and that the costs it had already offered were reasonable. It highlighted several concerns with the independent scope of works, such as the proposed costs for removing radiator covers and repairing plaster behind skirting. It also raised issues with the inclusion of a 10% uplift for COVID related restrictions, the increase in costs for the supply and sanding of the flooring, the increase in costs for the preliminaries and the increase in costs for the kitchen works.

I'm not an expert in the costing or scoping of building repairs. My role is to look at the available evidence, including reports or opinions provided by qualified experts, and to reach a decision about what I consider to be fair and reasonable in light of such evidence.

I've thought carefully about all the evidence and arguments provided by both sides. Having done so I'm minded to reach a different outcome to that reached by our investigator. In our investigator's view, the most persuasive costs were provided by AXA's loss adjuster and surveyor. This was because they had actually visited the site prior to producing their scope as opposed to the independent surveyor who hadn't attended site. But I don't agree with this and I'll explain why.

In this case, the scope of required works and the relevant measurements aren't in dispute, only the cost of completing those works. If the dispute related to the works required or the measurements taken, I'd agree that it might be reasonable to place more weight on the opinion of someone who'd attended the site over someone who hadn't. But, in my view, a chartered surveyor would be more than capable of pricing the required works based on the scopes and measurements completed by others. In this case the surveyor set out all of the evidence he had sight of, and utilised, to provide his report and suggested costs. And based on what I've seen, I don't think the fact the surveyor didn't attend the site impacts the reliability or persuasiveness of his findings.

In similar cases, where there are two parties giving significantly different opinions on costs based on expert opinion, I might have suggested appointing an additional, independent expert to provide an opinion. But that's what already happened in this case, prior to our service's involvement.

Having considered the third (independent) surveyor's report, I'm satisfied that he is sufficiently qualified and that his opinion is genuinely independent of AXA and Mr S and Mrs W. I've thought about AXA's concerns with some of the costs he suggested. But I note that the surveyor has provided a specific response to these concerns and I don't believe his position or response to be unreasonable.

While I don't doubt that each of the experts, appointed by AXA or the loss assessor, have approached this case as impartially as they can, I can't ignore that each were also acting as agents of the respective parties – the loss assessor for Mr S and Mrs W and the loss adjuster for AXA. Whereas the chartered surveyor was appointed by Mr S and Mrs W (at the suggestion of the loss assessor but with no involvement from them) specifically to provide an impartial opinion after having considered the evidence and costs already proposed by both sides.

Based on the above, I consider the chartered surveyor's report to be the most impartial of the available expert evidence. And taking that into account along with the surveyor's level of expertise, the content of his report and the additional comments he provided in response to AXA's concerns, I also consider his opinion to be the most persuasive.

So, unless any information provided in response to this provisional decision changes my opinion, I'm intending to direct AXA to increase the settlement it paid to Mr S and Mrs W, to the value provided by the independent surveyor. This means it must pay the difference between the amount it has already paid, and the costs provided by the surveyor.

As I understand it, the loss assessor has already carried out the repair works, for the amount quoted by the surveyor, and has charged Mr S and Mrs W the difference between that amount and the settlement already paid by AXA. They said this amount came to £21,681.94 after factoring in VAT and removal of the policy excess. If Mr S and Mrs W have already paid the loss assessor that money, then AXA should also add 8% simple interest to the amount due to them, from the date they paid the loss assessor to the date they are reimbursed. This is to compensate them for being deprived of the use of that money for other purposes.

In addition, as the independent surveyor's report has been material to my provisional decision to uphold Mr S and Mrs W complaint about the cost of the works, I'm also intending to direct AXA to cover the costs they incurred in obtaining that report. And to that amount, AXA should also add 8% simple interest, from the date they paid the surveyor to the date they are reimbursed – for the reason explained above.

Service issues

Mr S and Mrs W have also complained about the handling of their claim. They say there were unnecessary or unreasonable delays and that they were required to chase the loss adjuster for contact numerous times.

AXA has accepted that the level of service Mr S and Mrs W received on this claim fell short of their reasonable expectations. It made several separate offers of compensation - £150 for having to chase the loss adjuster for contact, £100 for the length of time it took AXA to answer their complaint and £75 for further issues after it issued its final response letter, including delays with some works for damp proofing. AXA then increased this offer by a further £300, taking it to £625 in total, when it submitted its complaint file to our service.

I've thought carefully about everything that happened, including how Mr S and Mrs W have said they've been impacted by these issues. It must be noted that insurance claims like this are likely to cause some distress and inconvenience by their very nature, and that isn't the fault of the insurer or its agents. But in this case, it's not disputed that further, unnecessary, distress and inconvenience has been caused. Taking everything that happened into account, I'm satisfied that the £625 offered by AXA is sufficient to fairly compensate Mr S and Mrs W for the impact of the delays and communication issues.

That said, unlike our investigator, I'm currently minded to decide that the decision AXA reached on the claim was unfair. And I think it's reasonable to conclude that having the initial claim decision maintained, despite obtaining and providing further expert evidence in support of their position, would have been frustrating and distressing. So, I'm intending to award a further £125 compensation for the impact of this, taking the final compensation award to £750 in total."

I set out that I was intending to uphold Mr S and Mrs W's complaint and to direct AXA to increase the settlement for their claim in line with the figures proposed by the independent surveyor. I said I intended to direct AXA to cover the cost of the independent surveyor's report and to pay a total of £750 compensation.

Mr S and Mrs W said they accepted my provisional conclusions. But AXA didn't agree. In summary, it said:

- The independent surveyor based his findings on the scope of work and photos provided by the loss assessor whereas its surveyor visited the property.
- It had its surveyors' figures reviewed by additional in-house surveyors.
- It doesn't see how a surveyor appointed by the loss assessor can be considered any more impartial than those it appointed. Nor does it see why the surveyor's chartered status should mean his findings are more persuasive.
- Some elements of the independent surveyors' costs, such as the radiator covers, were high.
- The insured has carried out a cost assessment on their own quote which surely would result in a biased opinion.

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 also carefully considered the points raised in response to my provisional decision. Having done so, my provisional conclusions remain unchanged. I'll explain why.

In reaching my provisional decision I had already considered the majority of the arguments AXA has raised in response, as those arguments had already been made. I commented specifically on the fact that the independent surveyor hadn't attended the site and that AXA had its figures reviewed internally. I also commented on AXA's view that specific elements of the independent surveyor's costs were too high. Nothing AXA has said, about these points, in response to my provisional decision has changed the conclusions I reached.

AXA has questioned how a surveyor appointed by the loss assessor can be considered more impartial than its own surveyors. But again, I explained in my provisional decision that the independent surveyor wasn't appointed by the loss assessor. Rather the loss assessor specifically agreed with AXA that Mr S and Mrs W would appoint a surveyor without their or AXA's involvement – in an attempt to maximise the impartiality of the appointed expert.

I accept that the independent surveyor based his opinion on the scope and photos provided by the loss assessor. But at the stage the scope of works was no longer in dispute. The independent surveyor was appointed specifically to give an independent and unbiased view of the cost of the works. I remain of the view that he is the expert with the least vested interest and is therefore the most impartial. I'm also satisfied he is sufficiently qualified and that he has specifically addressed AXA's concerns with individual elements of his proposed costs. So, taking the above into account, I remain of the view that his costs are the most persuasive and so it would be fair and reasonable for AXA to increase the claim settlement in line with them.

It follows that I also think AXA needs to cover the cost of the independent report as set out in my provisional decision, and that it should pay the additional compensation I provisionally concluded was fair, for the reasons I explained.

My final decision

For the reasons set out above, and in my provisional decision, I uphold Mr S and Mrs W's complaint.

AXA Insurance UK Plc must:

- Increase the claim settlement in line with the costs provided by the independent chartered surveyor. If Mr S and Mrs W already paid that amount to their loss assessor, AXA should add 8% simple interest, to this amount, from the point Mr S and Mrs W were out of pocket to the date of settlement.
- Reimburse the cost of the independent report plus 8% simple interest from the point Mr S and Mrs W were out of pocket to the date of settlement.
- Pay a total of £750 compensation (taking into account any payments it has already made).

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S and Mrs W to accept or reject my decision before 24 October 2022.

Adam Golding
Ombudsman