

## **The complaint**

Mr B complained that AXA Insurance UK Plc (“AXA”) unfairly declined his claim under his home insurance policy.

## **What happened**

Mr B made a claim under his policy when he noticed water staining in his downstairs ceiling and hallway. AXA’s contractor attended the property to find the leak under the trace and access cover from the policy. The contractor carried out some testing of Mr B’s en-suite shower, but he couldn’t find the leak. So, a second visit was arranged, and the contractor was authorised to remove part of the ceiling to conduct a full review of the void below the bathroom.

AXA said, “after flood testing the shower enclosure, leaks occur[ed] due to failed sealant, it was clear this had been leaking for some time, with the chip board flooring underneath being rotten. Based on the circumstances, our agent advised we would be unable to assist with your claim. This is due to leaks from failed sealant / grouting are not covered and it would have to be from a fixed water source in order to consider your claim”.

The leak continued when the shower wasn’t being used. So, Mr B appointed his own plumber to investigate the leak. Mr B provided AXA with his own plumber’s report which outlined that a heating pipe had been penetrated with a nail which was rusting. It outlined that the boiler system required draining and a damaged section of pipe was removed / renewed and this resolved the issue.

AXA reviewed the claim but decided it couldn’t cover the claim as it maintained that the leak was caused by faulty seals in the shower, so it thought it was a maintenance issue rather than a one-off insured event.

Our investigator decided to uphold the complaint. Having reviewed the reports and photographs provided by both parties, he was persuaded that it was more likely the nail in the heating system had caused the leak. He recommended “AXA take reasonable steps to correct the situation, including (if needed) meeting with Mr B and to decide what works AXA are responsible for and make the required refunds”. AXA disagreed, so the case has been referred to an ombudsman.

## **My provisional decision**

I issued a provisional decision on this on 6 October 2022. I said:

*“AXA have covered the trace and access parts of the claim as it was covered by the policy. However, it hasn’t covered the damage caused by the leak as it said it was caused by a poorly installed shower unit. So, I have considered whether it has been fair in declining this part of the claim. I don’t think it has, and I’ll explain why I have reached this decision. But, I intend to uphold this complaint.*

*Mr B has provided a detailed and comprehensive account and timeline of events to his claim*

*that I find particularly persuasive as it presents a consistent, logical and coherent description of what's happened.*

*Mr B has explained that once he identified his leak, he stopped using his shower. I have no reason to think this isn't true. So, I think it would be unlikely that a leak from the shower seals as AXA have concluded would've continued past the point when Mr B last used the shower. Mr B explained that the leak was identified towards the end of the day, after he'd been out all day – again this suggests the leak didn't originate from shower usage.*

*I think if AXA had been confident the leak was coming solely from the shower, then it would've identified the source of the leak on its contractor's first visit. Mr B testified that AXA's contractor had explained to him that "there is a very minor leak under one part of the glass at the front of the shower, but you would need to be in there over two hours at a time to cause anything like this damage". This casts doubt in my mind that the shower was the cause.*

*Having viewed photographs provided, the damage is extensive and widespread. I think Mr B reported the leak as soon as it happened – there is no reason why he wouldn't have done. I don't think it's likely that the damage observed downstairs in the property would've been caused by a recent shower. And if it had happened over time, I think there would've been a more gradual development to the pattern of damage, and it would've been noticed sooner.*

*This is supported by Mr B's expert report from his plumber who stated "in my 25 years of working in the industry I have never known of a poorly sealed shower screen to cause the intense damage that has been caused and it is clear to say that the damage was caused by a nail/screw in a central heating pipe. This is what has caused the major damage and also, the brown staining on the 2 number ceilings and all walls in hallway and front room".*

*I have studied the photographs that have been provided of the damage and can see there is a heavy staining to the walls from the leak. Mr B described this as brown in colour. I also find this evidence persuading. I wouldn't expect a leak coming directly from a shower to make such as dirty stain on the ceiling and walls as is evidenced in Mr B's property. I think it's more likely that dirty staining of this nature is more likely to have come from the water in the heating system which generally is dirtier.*

*Mr B has provided photographic evidence that a nail was penetrating the heating pipe in the vicinity of the leak. As the nail was rusted, AXA said the nail has been in situ for a long period of time – even suggesting it pre-dated 2008. Mr B's plumber has explained that this was the cause of the leak. Once, the plumber had fixed the damaged pipe, Mr B said he no longer experienced leaking in his property.*

*AXA said if this was the cause of the leak, it would've shown up much earlier. It said "we would have expected to see mould being present around the pipe and erosion to the chipboard above the pipe, had it been leaking for 13 years, however, there is no evidence of this. Also, had the leak been caused by the nail then this would be considered to be a poor workmanship issue and wouldn't be covered under this policy".*

*However, I don't agree. I think the nail could've penetrated the pipe and formed a seal, so it didn't leak. I think it's likely that over time the nail has rusted and fatigued, which has led to that seal breaking. I think it's likely this caused the damage that was evidenced. Therefore, I wouldn't have expected signs of long-term leaking and mould as I think it was a recent occurrence. And I don't think Mr B would've been aware of the nail in the pipe, so I can't say it's a maintenance issue.*

*AXA said there was evident water splashes above the pipe where the nail had penetrated*

*and the floor under the shower was rotten. I think this does show there was some leakage from the shower, however, I don't think this was the main cause of the damage for the reasons I've set out above.*

*I think Mr B has sufficiently proven that the nail in the pipe was the main cause of damage and I don't think AXA has shown it's more likely that wear and tear or poor maintenance is the cause of the leak. Therefore, I intend that AXA settle the claim in line with the remaining terms and conditions of the policy. It appears, Mr B has since had some repairs carried out, so AXA should review the costs of these and use its knowledge from its reports to validate the claim.*

*The delay in settling the claim has meant Mr B has had to put up with living in his house with dirty stained walls and ceiling until he finally had the repairs done. I think this would've caused some level of distress. And as the claim has gone on longer than it should've done, I think Mr B has been unnecessarily inconvenienced. Therefore, I intend to award £300 compensation for distress and inconvenience.*

*Mr B said his shower plinth is still damaged from when AXA carried out the trace and access activities. I intend AXA to review and validate this damage and take reasonable steps if appropriate to put it right".*

### **Responses to my provisional decision**

Mr B accepted my provisional decision and didn't have anything further to add.

AXA didn't respond 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 that I uphold this complaint. I require AXA Insurance

UK Plc to:

- settle the claim in line with the remaining terms and conditions of the policy
- pay Mr B £300\* compensation for distress and inconvenience.
- review and validate the damage to the shower plinth and take reasonable steps if appropriate to put it right.

\* AXA Insurance UK Plc must pay the compensation within 28 days of the date on which we tell it that Mr B 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 8% a year simple.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 5 December 2022.

Pete Averill  
**Ombudsman**

