

The complaint

Ms T is unhappy with the way in which AXA Insurance UK Plc dealt with a claim she made under her home insurance policy. Specifically, she is concerned that it initially declined her claim. And then when AXA did accept it, Ms T considers the settlement offer provided to her to be unreasonable.

What happened

Ms T has explained that in February 2022, the garden wall at her property blew down. The section of wall that had come down was around 20 meters long. And left her garden insecure. In addition to this, the rubble had damaged plants in the flower beds, as well as some garden furniture.

Because of the damage, Ms T made a claim under her home insurance policy. She says that when she initially reported the claim, she was promised a call back to discuss the matter. But this didn't happen. So, she chased for a response from AXA a couple of days later.

At that point, Ms T said AXA declined her claim over the phone. Ms T said AXA accepted there were storm conditions at her property, when the wall came down. But said that a wall in a good state of repair shouldn't have fallen down as it did. So, it felt the cause of the damage was a maintenance problem with the wall – rather than a storm. And as the policy didn't cover maintenance, it wasn't something AXA could take any action on.

Ms T didn't consider this to be fair and raised her concerns about this with AXA. It considered the matter and agreed that it had been too quick to make a decision on the claim. AXA asked Ms T to provide an independent report on the wall, as well as photographs of it. It said it would then consider the claim further.

Ms T did as she was asked and supplied information to AXA. AXA then appointed a loss adjuster to visit Ms T's home, and further validate the loss.

This loss adjuster noted the wall Ms T was claiming for, was considered as an 'outbuilding' within the definitions of her policy. And that the sum insured for outbuildings was £7,500. It noted this meant Ms T was significantly underinsured – because the wall, which would cost around £25,000 to rebuild, alongside other things that came under the definition of 'outbuildings,' were worth £73,568.

AXA said that Ms T's policy made it clear that if a policyholder was underinsured, any claim settlement would be reduced, in proportion with how underinsured the policyholder was. In this case, AXA said Ms T was 89.81% underinsured, so it would only pay 10.19% of the cost of rebuilding the wall. As the wall would cost £24,650, the proportionate settlement would therefore be £2,511.83.

AXA agreed to also settle £499 for the outdoor sofa and £855.44 for the plants. Which Ms T has confirmed she is happy with. So, in total, AXA agreed to pay £3,616.27 – after deduction of the £250 excess on the policy.

Ms T was unhappy with the settlement for the wall. She said she had not been told that the wall at her property would be considered as an 'outbuilding.' She said she'd relied on AXA's expert opinion when taking out her policy. And was insured for £1,000,000 for buildings. And so, she didn't consider AXA had acted fairly here.

Ms T raised her concerns in respect of this. But AXA maintained its position. So, Ms T referred her complaint to this service for an independent review.

Our investigator considered this complaint and felt it should be upheld. Our investigator noted that Ms T's policy documents had not been clear. They said they could see Ms T's policy documents, sent to her for the policy year, noted outbuildings were insured for £7,500. But that this didn't explain the garden wall would be considered an outbuilding. Instead, Ms T would have had to go looking through her policy booklet to establish this. As this wasn't clear, the investigator didn't think it was fair of AXA to rely on this, to reduce the settlement for the wall as it had. So, they recommended that AXA reconsider Ms T's claim, in line with the remaining terms and conditions of the policy, and without applying limits in respect of the outbuilding limit.

Our investigator also recommended £100 compensation be provided to Ms T, for the trouble and upset she'd experienced.

Ms T agreed with our investigator's opinion. AXA didn't. AXA considers that the wall being an outbuilding was made clear when Ms T took out the policy in 2020. So, Ms T should have been aware of this – and the outbuildings limit, from the sales process – as well as from her policy documentation.

But it contacted Ms T directly and raised a payment for £150 compensation.

As AXA didn't agree with the outcome overall, this complaint has been referred to me 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.

Having done so, I've decided to uphold this complaint. I've explained why below. When considering complaints such as this, I need to consider the relevant law, rules and industry guidelines. The relevant rules, set up by the Financial Conduct Authority, say that an insurer must deal with a claim promptly and fairly. So, I've thought about whether AXA acted in line with these requirements, when dealing with Ms T's claim. And I don't think it did.

I've reviewed Ms T's policy documentation. And I can see she has cover for instances of storm damage. Ms T made a claim under her policy for this – and it's my understanding that neither party dispute there were storm conditions at the time of Ms T's loss. Ms T has said that in light of this, it was unfair of AXA to decline her claim on the phone initially. And AXA has agreed it declined Ms T's claim too early – not having had enough evidence in order to fairly assess the claim. As neither party is in dispute to as this, I haven't had to consider this any further – other than whether AXA have fairly recognised the trouble and upset this caused.

But what I have needed to consider, is whether AXA acted fairly in its actions, after it accepted the claim. AXA offered settlement for the sofa and plants – which aren't in dispute now. And so, I haven't considered these. But Ms T says the settlement offered for the wall was unfair.

Based on the information I've seen from the parties – I agree that the settlement AXA has offered for the wall is unfair. AXA say Ms T was underinsured – and so it is able to proportionally reduce the settlement amount, taking this into account. But I don't think that's fair in this situation.

Ms T's insurance policy was a renewal. So, she was sent policy documents to review, at this point. I've seen these policy documents.

The policy schedule sent to Ms T included a box, with the heading '*cover you have chosen.*' It lists buildings as selected, for a sum insured of £1,000,000. And cover for outbuildings in place, with a sum insured of £7,500.

Nowhere on this document, did it explain what 'sum insured' meant, and that the figures selected needing to be sufficient to rebuild the outbuildings as new. It just suggested this was 'chosen' cover. So, I don't think Ms T would have been clear AXA needed an accurate assessment of what it would cost Ms T to rebuild all outbuildings, including the wall, as new.

And there wasn't sufficient information on the document, to note that the wall would also be included in the outbuildings. I don't think it's unreasonable that Ms T wouldn't consider a wall to be considered an 'outbuilding.' This doesn't seem usual, or in line with the ordinary meaning of the word. Given AXA's specific and unusual definition of an outbuilding, I think this should have been specifically brought to Ms T's attention, as well as the above information about the rebuild cost being clear at renewal. And as it wasn't – I don't think it's fair for AXA to rely on the averaging clause within the policy, or the outbuildings policy limit, when dealing with Ms T's claim for the wall.

AXA has said the definition of 'outbuilding' and a diagram showing this, is within the policy booklet Ms T received. And I do note that was the case. But I don't think it's enough for AXA to refer Ms T to the policy booklet, and for her to actively look for this. Given the unusual nature of the definition, I think it should have been brought to her attention more specifically.

AXA has mentioned the sale of Ms T's policy in 2020. And it has referred to screen shots from the aggregator site Ms T purchased her initial policy through. These screenshots include information on what Ms T would have seen in reference to insurance for outbuildings. But this information hasn't altered my decision on this complaint. Ms T's policy renewed since that point. So, Ms T entered into a new contract for the policy year concerned. And as detailed above, I don't think the relevant information about outbuildings, and what Ms T needed to consider in terms of the sum insured for them, was made clear.

So, whilst I accept the policy terms allow AXA to reduce the claim settlement in instances of underinsurance, I'm not satisfied that's fair and reasonable here – given what I've said above. So, I find that AXA should deal with Ms T's claim, in light of the remaining terms of the policy. And it mustn't apply the underperformance provisions, or outbuildings limit to any settlement provided for the wall, when doing so.

I've also considered the trouble and upset the above caused. Ms T's claim was originally declined, without sufficient information from AXA to do so. And I can appreciate this would have been distressing for Ms T – given a large part of the wall in her property was no longer there, and meaning the property wasn't completely secure. I also consider that telling Ms T she was underinsured and would receive £2,511.83 in settlement of the wall – leaving a large surplus, would have been troubling and upsetting – Ms T has said she doesn't have the funds herself to put the wall right.

With the above in mind, I think it's fair for AXA to pay Ms T compensation for the trouble and upset caused to her. Our investigator recommended this be £100. But AXA has since increased this amount to £150. And it's my understanding that it has already raised this payment to Ms T. I'm satisfied this compensation is fair and reasonable. I think it sufficiently recognises the above trouble and upset described. So, if the £150 hasn't been provided to Ms T as yet, AXA should provide this to her.

My final decision

Given the above, my final decision is that I uphold this complaint. I consider AXA Insurance UK Plc, should deal with Ms T's claim, in light of the remaining terms of the policy. It must not apply the underinsurance provisions or outbuildings limit to any settlement provided for the wall when doing so.

It appears AXA has already paid Ms T £150 compensation - £50 over what our investigator's outcome recommended. But I think £150 compensation as AXA discussed with Ms T is fair. So, if it hasn't already paid this, it should do so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms T to accept or reject my decision before 16 December 2022.

Rachel Woods
Ombudsman