

The complaint

Mr C complains AXA Insurance UK Plc has unfairly settled a claim he's made on his building insurance policy.

What happened

AXA is the underwriter of the policy, i.e. it is the insurer. Part of this complaint concerns the actions of AXA's agents which AXA has accepted it's accountable for. References I make to AXA includes the actions of its agents.

The background to this complaint is well known to the parties so I've provided a summary here.

- Mr C owns a property insured under a buildings insurance policy underwritten by AXA. The property experienced water damage following a flash flood. Mr C made a claim on the policy for the damage to the property and its contents. This complaint focuses on the buildings claim.
- AXA accepted the buildings claim but said the property was underinsured and so it would only pay 62% of the claim amount in settlement. Mr C was unhappy with this and said AXA had provided him with guidance in deciding the buildings rebuild cost and so had misadvised him when he took the policy out. AXA denied this and said it relied on policyholders to provide true and accurate information.
- It said, on annual renewal of the policy in 2020, Mr C asked to increase the outbuildings sum insured and amended documents were sent confirming the revised policy limit. And the documentation explained a claim would be settled on a proportionate basis if the sum insured was found to be inadequate, as it was in this case.
- Mr C raised a complaint with this Service. Our Investigator requested further information from AXA numerous times but it failed to provide it so she proceeded with the evidence she had. She upheld Mr C's complaint as she wasn't satisfied AXA had explained sufficiently why the rebuild cost Mr C gave was unreasonable. And because of this she didn't think it was fair for AXA to proportionally settle the claim. She told AXA it should pay the whole claim together with 8% simple interest on the additional amount and £300 compensation.
- Mr C accepted her findings although he thought he should receive more compensation. AXA provided some further information about the original application process but didn't respond to the Investigator's request for further information about the rebuild value it had provided in January 2023.
- So, the complaint has come to me for an Ombudsman's 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.

The key thing for me to decide in this complaint is whether the question AXA asked Mr C about the rebuild cost was clear and whether Mr C's answer to the question was reasonable. My starting point is the policy terms.

The policy terms

- I'm satisfied the terms allow AXA to proportionally settle the claim where there's underinsurance. In my experience, this is a common term across many insurance policies and the term is clear and not misleading.
- AXA calculated the rebuild cost as £324,000 but Mr C had only insured the buildings for £200,000. So AXA said Mr C was only insured for 62% of the true rebuild cost and so it settled the claim proportionally and paid Mr C 62% of the claim value, amounting to £16,772 after deduction of the excess.
- Whilst I recognise the policy term allows AXA to reduce the claim in this way, I must also consider whether doing so would produce a fair and reasonable outcome in all the circumstances. AXA is applying the term because it says Mr C didn't provide a reasonable estimate of the rebuild cost when he took out and renewed the policy. So, I think it's fair to consider what information AXA asked him to provide at those times – and whether his responses were reasonable.

The rebuild cost during the 2019 sales process

- I've kept in mind here, deciding on a "correct" rebuild cost is not an exact science and it's likely if a number of builders were asked to provide an estimate to build the same house, they'd each provide a different figure. Indeed, AXA has quoted a wide range of different figures in its evidence. I also have to keep in mind here, Mr C isn't an expert in this subject, nor is he expected to be, and he's likely to be reliant on the guidance he receives during the application process in deciding on the figure required.
- Mr C used an insurance comparison site to obtain quotes. When selling a policy through a comparison website, AXA is responsible for the questions asked, and any other guidance or information provided, by the website.
- I've considered what Mr C was asked about the level of buildings cover he required and the guidance he was provided to help him answer this.
- There's some disagreement about the exact nature of what Mr C would have seen when he obtained quotes from the comparison website and whether there was a link to an external rebuild cost calculator. Mr C has provided screenshots of this part of the comparison site quote journey including the part about what level of buildings cover he requires. From these, it seems to me there was a built-in rebuild cost calculator, but I've seen evidence this was unable to calculate a figure for Mr C's property. So I'm not persuaded any disagreement about exactly what was there at the time makes a difference anyway as the calculator was unable to provide guidance in Mr C's circumstances.
- During the quote process, Mr C was asked how much it would cost to rebuild his

property but he was given little explanation about what this meant in practice. The question was accompanied by the following explanation (with the emphasis being mine): ***“Rebuild cost is typically less than market value. Think of the property value without the land. Alternatively, you could check your latest mortgage valuation or insurance documents”***. Mr C has shown this same advice is given today and I have confirmed this myself.

- Mr C doesn't have a copy of any mortgage valuation from when he purchased the property but had paid £218,000 for it. In his mortgage offer documentation from 2018, which I have seen, there's no rebuild cost detailed but his lender quotes the estimated value to be £220,000.
- Mr C says he decided on a rebuild cost of £200,000 which was slightly less than the market value of the property with an adjustment to reach a figure excluding the large, landscaped garden which he says was in line with the guidance he received, detailed above.
- Having obtained quotes, Mr C completed the purchase of the policy over the phone direct with AXA. I've listened very carefully to this call and note AXA didn't request any clarification of the buildings sum insured or provide any further information about how this could be calculated.
- Mr C says an AXA agent gave him advice on the level of cover he should take out, but I didn't hear this during the conversation I listened to. I know Mr C believes AXA must have doctored the call but he's not supplied any evidence to support this and I'm not persuaded this belief has merit. Our Investigator asked if AXA had records of any other calls – apart from this and the one detailed below - but it failed to respond despite being chased several times.
- I've thought about this very carefully and, taking into account the question Mr C was asked, the guidance he was given and the information he had available to him when taking out the policy, I'm satisfied his answer to the question - £200,000 - was reasonable in the circumstances.

Renewal in 2020, the year of the claim

- Mr C spoke to AXA in 2020 shortly before the policy was due to renew. He increased the sum insured for an outbuilding that had just been added to the deeds of the property. The agent did mention rebuild cost calculators but there was no further discussion about the rebuild cost of the main property.
- Having listened carefully to this call, Mr C strikes me as a prudent individual and his manner is indicative of somebody taking care to give reasonable information, ie not somebody who acted without due care and attention when providing information,
- Revised documents were sent but there was no further guidance or explanation of rebuild costs included with this, just an instruction to check the information therein was correct and a warning about the consequences if they weren't.
- AXA says Mr C was provided with a link to an external rebuild cost calculator although there is some disagreement about this. But even if he was provided with this, Mr C has shown the calculator is unable to provide a figure due to the date and construction of his property. So, I'm not persuaded it makes any difference anyway.
- Overall, I've seen nothing here which persuades me Mr C was given new information

by AXA which ought to have led him to question the rebuild cost of the main property or that it needed to be revised.

Overall, was Mr C's rebuild figure reasonable?

- AXA calculated a number of different rebuild figures between £200,000 and £460,000 before settling on the final figure of £324,000 and this highlights to me the challenge of finding the “correct” rebuild figure. Our Investigator asked for further explanation of this figure but AXA didn't respond to her enquiries and from the evidence I've seen it's not clear to me whether this includes the outbuildings Mr C added to the policy or whether it relates to the main building only.
- Taking everything I've said above into account, I'm satisfied the rebuild cost Mr C provided to AXA was reasonable given the question it asked him and the guidance it provided. AXA hasn't done enough to persuade me this figure was unreasonable and it follows I don't think it would be fair or reasonable for AXA to proportionally settle his claim.

Putting things right

- AXA should now settle the full extent of the claim without reliance on the underinsurance policy term and subject to the remaining policy terms and conditions.
- It should also pay 8% simple per annum* on the additional amount from the date it made the initial settlement until the date it pays Mr C the remainder.
- It's clear Mr C has found the claim stressful and he's explained the impact on him and his family. I've thought carefully about this and have decided AXA should pay Mr C £300 for the distress and inconvenience it caused through its handling of the claim. I know Mr C doesn't think this is enough, but I'm satisfied it's fair and reasonable in all the circumstances.

My final decision

My final decision is that I uphold this complaint and direct AXA Insurance UK Plc to:

- Settle the full extent of the claim without reliance on the underinsurance policy term and subject to the remaining policy terms and conditions.
- It should also pay 8% simple per annum* on the additional amount from the date it made the initial settlement until the date it pays Mr C the remainder.
- Pay Mr C £300 compensation.

AXA Insurance UK Plc must pay the compensation within 28 days of the date on which we tell it Mr C 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.

*If AXA Insurance UK Plc considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr C how much it's taken off. It should also give Mr C a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 11 April 2023.

Paul Phillips
Ombudsman