

## **The complaint**

Mr M complains about the decision by AXIS Specialty Europe SE to turn down his claim for accidental damage under his property owners insurance policy.

## **What happened**

The details of this complaint are well known to both parties, so I won't repeat them again here. Instead, I'll focus on giving my reasons for my 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.

Having done so, I agree with the conclusions reached by the investigator, and for these reasons:

- When AXIS's loss adjuster visited the property, they couldn't identify the cause of damage. Mr M therefore arranged for two inspections to take place – both reports confirmed that the cause of damage was a pipe that had become dislodged. This meant the filter bed had become contaminated beyond repair, and the septic tank needed to be replaced.
- AXIS says the system was not fit for purpose and the location of the tank and system was the cause of the problem. However, the two reports obtained by Mr M made it clear that the system had been fit for purpose for many years, with no issues until February 2022. The report of September 2022 explained why the proposed position of the septic tank on the consent to discharge wasn't appropriate for the site, and that the actual location of the septic tank was considered best practice. I'm therefore not persuaded AXIS has shown the system wasn't fit for purpose.
- AXIS thought the damage was likely due to wear and tear or breakdown due to faulty design, specification and/or workmanship, but it hasn't provided any persuasive evidence of this. Although it says it obtained advice from a septic tank contractor, it didn't obtain a report from that company, and they didn't complete a site visit. I therefore find that greater weight should be placed on the reports obtained by Mr M.
- Although it is not known how the pipe became dislodged, Mr M arranged for desludging to take place annually, and so it may have become dislodged during that process. Regardless though, I'm satisfied a dislodged pipe meets the policy definition of accidental damage and that AXIS should therefore deal with the claim.
- I agree with our investigator that Mr M has been caused inconvenience by AXIS's handling of the claim and claims decision. He had to pay for and arrange for the tank to be regularly emptied until a full repair could be done. I think the delays could have been avoided if AXIS had arranged for an inspection to be carried out by a septic tank contractor. I require AXIS to reimburse Mr M for the drainage costs, and also

pay £400 compensation for the inconvenience and distress caused to him. It should also reimburse him for the reports he obtained.

### **My final decision**

My final decision is that I uphold this complaint. I require AXIS Specialty Europe SE to do the following:

- Deal with the claim for the repairs and loss of rent in line with the policy terms. If Mr M has paid for the repairs himself, he should be reimbursed and interest\* added at the rate of 8% simple per annum from the date the costs were incurred to the date of settlement. For the loss of rent payments, interest\* should be added at the rate of 8% simple per annum from the date each rental payment was due to the date of settlement.
- Reimburse Mr M for the cost of the two reports and the emptying of the tank until full repairs could be done. Interest\* should be added at the rate of 8% simple per annum from the date the costs were incurred to the date of settlement.
- Pay Mr M £400 compensation.

\* If AXIS considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Mr M how much it's taken off. It should also give Mr M a certificate showing this 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 M to accept or reject my decision before 21 November 2023.

Chantelle Hurn-Ryan  
**Ombudsman**