

## The complaint

Mr and Mrs C have complained about their property insurer AXA Insurance UK Plc in respect of a claim they made to it for water damage. They believe it mishandled the claim, causing delays and upset.

## What happened

Mr and Mrs C had a water leak at their home in late 2016. A plumber fixed the leak and AXA said it would pay for a cosmetic repair to the dining room ceiling – the water having come from a pipe in the bathroom floor above. In 2017 Mr and Mrs C got back in touch with AXA's loss adjuster – as they had concerns that their property was still suffering water damage. It was April 2019 before AXA assessed their home again – it found that moisture and mould had been trapped behind tiling in the bathroom since 2016, that the loss adjuster in 2016 had not tested the moisture levels in the bathroom, that it should have done and if it had the bathroom would have been stripped, dried and reinstated as part of the 2016 claim. Further, because that hadn't happened, that had allowed more water damage to occur in the years since as the water damage had kept affecting the shower seals. The moisture in the property had caused visible mould to occur in the kitchen and dining room.

AXA began trying to resolve the state of the home and in August 2019 it did some mould remediation downstairs. By October Mr and Mrs C were asking AXA why it hadn't also looked to resolve the mould in the bathroom. AXA told Mr and Mrs C it hadn't been made aware of mould in the bathroom – but now it had been it would resolve that. A problem then arose about use of the bathroom – it being the only one in the house. When the Covid-19 pandemic restrictions began in March 2020 the property was still in a stripped-out state. The family were able to use the toilet in the bathroom – but were having to use their kitchen sink for washing. During 2020 AXA began looking to settle the claim in cash with Mr and Mrs C.

In summer 2020 the loss adjuster wrote to Mr and Mrs C – it said £17,000 would be paid to them in full and final settlement of their claim – that their quotes for repairs were too high. A cheque for that sum was sent to Mr and Mrs C in November 2020. And in February 2021 AXA, in a final response, told Mr and Mrs C that it felt that was the correct amount – and if they wanted it to be reviewed, a surveyor would need to be appointed. Or they could complain to us. Mr and Mrs C had already contacted us in 2020 about claim delays. So they asked our Investigator to review everything.

Mr and Mrs C said they wanted:

- A disturbance allowance promised in 2016 but never paid.
- Their cost for repairs to be paid – an updated quote was provided.
- AXA to cover the cost of additional damage which had occurred since 2019.
- The cost of welfare facilities, not included in their quote, previously agreed by AXA.
- AXA to pay for storage and alternative accommodation for them during the work.
- A payment to reinstate their contents items – previously dismantled by AXA.
- Compensation for upset to be paid.
- For the additional cost of the claim to be removed from their record.

Our Investigator did feel that AXA had failed Mr and Mrs C in some respects. And she made some suggestions for how that could be put right. But neither AXA nor Mr and Mrs C were satisfied with her findings.

The complaint was passed to me for an Ombudsman's decision. I also felt AXA had failed Mr and Mrs C. But to a greater extent, with more needing doing to put matters right, than accepted or suggested by our Investigator. So I issued a provision decision to explain everything. My provisional findings were:

#### "Disturbance allowance from 2016

*AXA told the loss adjuster to pay an allowance to Mr and Mrs C because while the leak was fixed, they'd be without basic facilities at their home. The loss adjuster's file shows that it told Mr and Mrs C it would pay this after its visit – once it knew the claim was valid. Following the visit, the loss adjuster settled with Mr and Mrs C for the cost of repairs – there's nothing in its file to suggest it considered and paid a disturbance allowance to them. It seems likely to me that the family would have been without facilities for two days whilst the pipe was fixed, there are four (adult) family members, so AXA, in my view, owes Mr and Mrs C £80.00 – £10 per adult, per day. To that sum it should add interest\* applied from 23 January 2017 – a week after the loss adjuster's visit – until settlement is made.*

#### Cost for repair

*At some stage Mr and Mrs C did come to believe that it would be better for them to have a cash settlement. But I am satisfied that AXA recommended this first – it set the wheels for that in motion. And, importantly for me, when it had decided what it felt a fair and reasonable sum for that would be – it told Mr and Mrs C that this would be paid to them in full and final settlement. Even when it later agreed that the figure could be reviewed by appointment of a surveyor – it did not tell Mr and Mrs C that they could accept the payment sent to them as an interim settlement and still complain, or pursue the surveyor's review it had offered. I think the time has long since passed for further reviews of costs to be undertaken – both sides need to be able to finalise this claim and move on. AXA has not contested the work detailed in the quote, and it has had an opportunity to consider the revised version. AXA has only disputed the total sum, which it thinks is too high – but it seems that is what Mr and Mrs C will have to pay to have the agreed repairs done, and AXA recommended settlement in that way. AXA, in making its settlement payment to Mr and Mrs C in 2020 was also prepared to pay the VAT sum due up front. As such I think it's fair and reasonable to require AXA to now pay Mr and Mrs C £51,282.00, being the total amount of their revised 2022 quote, including VAT. I'm also mindful that a few months have passed since that quote was done. So I'm going to require AXA to pay interest\* applied on the sum of £51,282.00 from the 8 September 2022, the date of the quote, until settlement is made.*

#### Additional damage

*I don't doubt the house has suffered in the years since it was stripped. Mr and Mrs C have described that masonry is falling away around the bathroom door, where the frame was removed in 2019. They say mould has also returned in a cupboard downstairs – likely because the house has been cold in the years since it was partially stripped. I think AXA should be covering the cost for reinstating these areas. I haven't seen a quote for their cost, but I think that a sum of £200 for these areas to be fixed as part of the larger programmes of works, seems fair. So I intend to award that sum to Mr and Mrs C.*

*Mr and Mrs C have also explained though that they have tried to put up temporary boarding and fill holes exposed by the stripping out work with wire wool and the like. If they have receipts for items purchased, or proof of payment to a contractor for completing work, such as putting up boarding, and they want AXA to reimburse these costs, they should send their proof to it. AXA should then reimburse the sums shown, plus interest\*. This should be applied to the reimbursed sums from the date the costs were incurred and until the date of*

*my final decision, and then again from the date the proof of outlay is received by AXA and until it reimburses the proven sums to Mr and Mrs C.*

#### Welfare facilities

*AXA did previously agree, on 30 January 2020, to pay £500 to cover the cost of welfare facilities. I'm satisfied it's fair and reasonable to make an award in this respect, including interest\*, to be applied to that sum from 30 January 2020 until settlement is made.*

#### Storage and alternative accommodation

*AXA should certainly be covering alternative accommodation costs as part of the claim. I think it's reasonable to say that the repairs will likely take a month to complete. It's possible that work to reinstate the bathroom will complete quicker than that. And, technically, the house will only be uninhabitable for the period the bathroom is out of action. However, I'm mindful of the family's religious concerns (centring around privacy), as well as their health. It's also clear to me that this has been a long and difficult process for them. I simply don't think it's fair and reasonable, in these specific circumstances, to expect them to live in their home during the repairs. I think a month will reasonably allow for work to be started and completed with them living elsewhere. And that shouldn't, in this case, in their situation, be a hotel – which is entirely dissimilar to their home. Rather AXA should cover the cost of the family moving to and staying in a property reasonably similar to their own for one month.*

*It seems likely to me that any property available for such a short-term let like this will be furnished. It also seems likely to me that items from Mr and Mrs C's home will have to be moved out to allow the works to be undertaken. Therefore, I think AXA should also cover the cost of one month's storage for Mr and Mrs C's belongings, including the cost of packing the items, moving them to storage, as well as back home and reinstating them.*

#### Contents items previously dismantled

*AXA should be covering the cost of putting these items back together. AXA's agent dismantled items to put them into storage. I'm not sure if the items are still in storage or have been returned to Mr and Mrs C in their dismantled state. In any event, they'll have to be in storage during the repair work – AXA should cover the cost of reinstating them once they are returned to the home.*

#### Compensation

*AXA failed Mr and Mrs C in 2016 – it should have checked the property was dry. But it didn't. AXA's report shows that the damage in 2019 was caused by AXA's agent, the loss adjuster, by failing to dry the property in 2016. If the bathroom had been checked properly in 2016, it would have been found that it was wet, and in need of stripping and drying. If that had been done then the moisture, mould and water damage that occurred in the years after would have been avoided. So Mr and Mrs C would not have had to chase the loss adjuster in 2017 and 2018, or had a visit in 2019 to assess the, by then, significant further damage.*

*And everything that Mr and Mrs C have suffered on account of the claim in the years since would have been avoided. In 2019, for example, there were further failures by AXA when it again failed to note the presence of damage behind the walls and under the floor in the bathroom – even though its April report had identified such. This caused delays in the claim in 2019 and additional disruption to the family at that time. And if AXA had handled things better following that 2019 report, it's possible the claim might still have resolved before the pandemic began to have such an affect on this country in March 2020.*

*There were further claim handling issues after 2019 – for example I've explained above about AXA not advising Mr and Mrs C that they could take the amount it had offered in settlement of the claim as an interim payment. But the biggest issue for Mr and Mrs C has been the pandemic itself with all the worry, upset and inconvenience they suffered during*

*that time. I understand that Mr and Mrs C have had a particularly difficult time during the pandemic – that their own health was an on-going concern and that they lost a lot of family members. AXA, of course, was not responsible for that. But if AXA had handled things properly in 2016, the claim would have been only a distant memory by the time the pandemic came around. As it was, with the claim on-going and unresolved in 2020, Mr and Mrs C were still handling that, whilst living in a damaged and disrupted home, when they experienced the additional stresses of the pandemic, including suffering and grieving their tragic losses. In the circumstances here, I'm satisfied that £5,000 compensation is fairly and reasonably due.*

#### The claim cost and record

*I understand that Mr and Mrs C would like the additional costs incurred by AXA due to its failure in 2016 to be stricken from their claim record. But that is not something I can reasonably require AXA to do. The industry requires that all costs, even those incurred only due to an insurer's failures are properly recorded. However, Mr and Mrs C will have this decision which they'll be able to show to other insurers if they should want to, as evidence of why the cost for repairing the 2016 leak was so high, with the claim on-going and unresolved for so long – because AXA failed to complete an adequate repair in 2016."*

AXA did not reply to my provisional decision.

Mr and Mrs C said their contractor had said work may take four to six weeks, so they asked for a period of six weeks' stay in alternative accommodation to be taken into account in my award. They said replacement door handles were agreed to – but they can't get one for the kitchen-diner to match. They said AXA had also agreed to pay a £1,000 contingency for the reinstatement work, which they'd like me to award. Mr and Mrs C said they are concerned that mould has returned in a number of places and will need dealing with. They said it has cost more to heat their home since the strip-out work was done in 2019.

Mr and Mrs C provided one receipt for materials for the mitigation work they had done and provided some details about the rest. They said they'd had extra electricity costs too as a result of the claim when AXA was drying the property in 2019. Mr and Mrs C said there's also the cost for other items damaged in the home since 2016 due to mould and increased moisture levels and by AXA in completing repairs. They were told the contents claim would be progressed and settled once the buildings claim was resolved – so AXA needs to sort that, including carpets. Mr and Mrs C said they're worried about their items still in storage – that they may be returned damaged and mouldy.

#### **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 understand Mr and Mrs C's concern about the period of works. But I've seen nothing directly from their contractor confirming how long he thinks the work as a whole will take. And I note that no period for the work is given in the original or revised reinstatement estimates. In June 2019, before stripping and drying work had been started, AXA felt that a total of two months would be sufficient for total reinstatement. And in October 2019, when the property had been stripped and dried, with the next phase of reinstatement due to commence, AXA spoke to its contractor who said that the bathroom work would take four weeks to complete. And I note that he didn't say that the total property reinstatement would take longer than that. I'm mindful that in reinstatement programmes like this it's often the case that more than one room is worked on at any one time. With all that in mind, with regret for any disappointment this causes Mr and Mrs C, I'm not minded to say AXA should pay for

a longer period of alternative accommodation. I remain of the view that four weeks is fair and reasonable based on the evidence I've seen.

The revised estimate includes the cost for replacing "ironmongery" for the kitchen-diner and bathroom doors. I understand that the handle on the bathroom door was always different to the rest. It is unfortunate if now a handle for the kitchen-diner door can't be found to match those on the other doors. However, as all the doors did not match before, I'm not persuaded it's reasonable for me to extend my award for settlement of the building reinstatement work to compensate for any loss of match.

AXA's file shows that the 2020 settlement payment did include an amount as a contingency for unforeseen work. But that was put forward as part of what AXA felt was a reasonable settlement figure before Mr and Mrs C actually presented a full contractor's estimate and, I think, in an attempt by AXA to settle things based on its sums. Whereas I am now basing my award on an updated version of Mr and Mrs C's estimate. I note that in putting forward the original and revised estimates, for what it would take to reinstate the property, that contractor did not detail a contingency charge of £1,000 for dealing with unforeseen work. And I bear in mind that even the original estimate from that contractor (priced at £34,296) was around double what AXA attempted to settle for. Instead of AXA settling at £17,000, as it had sought to, I am now requiring it to pay £51,282 plus interest\*. As such, I don't think it would be fair or reasonable for me to require AXA to also make a payment of £1,000 as a contingency sum.

Regarding buildings items damaged after the strip-out work was done in 2019, and the cost of heating the property in the years since, I'm not going to make any further award.

I'm sorry if my view on this disappoints Mr and Mrs C. I did note provisionally that this has been an exceedingly difficult time for them; I know they've suffered a lot and have been juggling a lot of things. I also know that they would not have been in that position as 2019 came to an end if AXA had handled things better in 2016 or any time up until around August 2019. But I bear in mind that at the end of 2019 the property was dry, with the mould having been treated. Also AXA issued its first complaint final response letter to Mr and Mrs C in December 2019, at which point they were already unhappy with the repairs and the prolonged claim. And it was around this time that the parties started talking about settling in cash. But it was June 2020 before Mr and Mrs C first contacted this service and it was into 2021 before they formally provided their complaint form. That was following AXA's February 2021 final response. And following our Investigator's view Mr and Mrs C said that the additional damage they were talking about having occurred since 2019 were mould in the cupboard and damage around the bathroom door frame. Which I made awards for in my provisional decision.

In light of all that, I'm not convinced it would be fair and reasonable, on this occasion, for me to extend the awards I've suggested in my provisional decision. I said provisionally that AXA significantly failed Mr and Mrs C and I stand by that. And I'm satisfied that in all of the circumstances here, the awards I've set out provisionally provide an overall fair and reasonable settlement for the complaint made.

The receipt provided can be passed on to AXA. I understand that Mr and Mrs C will continue looking for other proof – but that regarding putting up the ceiling boarding, the contractor did not provide a receipt. If Mr and Mrs C find further evidence of temporary/mitigation works, as referenced in my provisional findings, this can be passed to AXA – but where any costs aren't supported in evidence, AXA won't have to make reimbursement for them.

My focus in this complaint has been upon issues in dispute between the parties, particularly the building reinstatement work and its cost. An insurer will usually cover the cost of

electricity usage during the various repair phases. It isn't unusual for an insurer to deal with issues like this at the end of claim, once its policyholder's unit rate charged for power by the utility company is known and once the property has been fully reinstated in order all costs can be considered. Currently the property reinstatement work has not finished, AXA has not refused payment for electricity usage due to repairs, nor made any offer of settlement which is in dispute. So I won't comment further on the cost of electricity used to repair the property at this time.

Likewise I won't make a finding about what AXA must do regarding any element of the contents claim – including the carpets, but also an electric bathroom heater, and window handles – or items in storage, or in respect of replacing the lightshades. AXA hasn't refused to settle any contents items nor said what its settlement will be such that a dispute has arisen, and it agreed that the carpet would be replaced which can only reasonably be done once the property is restored. Further, until items come out of storage it won't be known what condition they are in or what AXA's view on its liability for that condition is. In respect of the lightshade Mr and Mrs C have said that AXA's drying company broke one of a pair in 2019 and agreed to replace both. AXA has not, to date, refused to do so. So I can't reasonably comment on these issues here.

If, once AXA has considered the electricity used during the claim, the contents claim (including the carpet), the items in storage and the lightshade, Mr and Mrs C are unhappy with its answer, they can make a further complaint.

### **Putting things right**

I require AXA to pay Mr and Mrs C:

- £80 as a disturbance allowance outstanding from the 2016 claim, plus interest\* applied from 23 January 2017 until settlement is made.
- £51,282.00 as the cost for repairs, plus interest\* applied from 8 September 2022, the date of the quote, until settlement is made.
- £200 for fixing the masonry around the bathroom door and mould in the cupboard below the bathroom.
- An amount as reimbursement of any costs they incurred to fill gaps and cover the ceiling when they were left living in the property in its stripped-out state. Mr and Mrs C will have to send evidence of their outlay to AXA for reimbursement to be made. On any sums AXA reimburses it will have to add interest\* applied from the date the sum was incurred until the date of my final decision and then from the date it receives the proof of outlay until it makes settlement for that sum to Mr and Mrs C.
- £500 for welfare facilities, plus interest\* applied from 30 January 2020 until settlement is made.
- An amount to cover the cost of reasonably like-for-like alternative accommodation for the family, plus storage for their belongings, in line with my comments above, for one month.
- An amount to cover the cost of reinstating items previously dismantled by its agents.
- £5,000 compensation.

\*Interest is at a rate of 8% simple per year and paid on the amounts specified and from/to the dates stated. HM Revenue & Customs requires AXA to take off tax from this interest. If asked, it must give Mr and Mrs C a certificate showing how much tax it's taken off.

### **My final decision**

I uphold this complaint. I require AXA Insurance UK Plc to provide the redress set out above at "Putting things right".

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C and Mr C to accept or reject my decision before 24 April 2023.

Fiona Robinson  
**Ombudsman**