

The complaint

Mrs H complains about how AXA Insurance UK Plc handled a subsidence claim on her buildings insurance policy.

Reference to AXA includes its agents.

What happened

Mrs H held a buildings insurance policy with AXA. When her home was damaged by subsidence, she submitted a claim. AXA accepted the claim, and accepted the damage was caused by subsidence.

Mrs H complains about how AXA has handled that claim.

AXA addressed some aspects of her complaint in a final response letter issued in November 2021. So, we're not able to look into those issues because they're outside of the timescales set by the Financial Conduct Authority.

But issues occurred after that date which Mrs H complains about. Namely she's not happy that AXA didn't spot a manhole next to her conservatory, which she feels delayed the building of her new conservatory. She thinks the issue with the manhole cover should have been spotted earlier, and that if it were, she'd have been without the use of her conservatory for less time.

AXA accepted the service it provided wasn't what Mrs H should have reasonably expected. It offered her £150 compensation.

Mrs H remained unhappy and brought her complaint to us.

One of our investigators didn't think AXA needed to anything more. She thought the compensation AXA offered was fair.

But Mrs H disagreed and asked for an ombudsman's decision.

I issued a provisional decision saying that based on what I'd seen, I was planning on requiring AXA to pay Mrs H a further £500. That decision said:

- *"The main issue here surrounds the manhole and whether it should have been spotted sooner.*
- *AXA has said neither the initial inspection nor the site investigation recorded the location of the manhole. These was carried out by two different specialists.*
- *AXA has said "Regretfully...neither contractor recorded the manhole..."*
- *There's no real explanation why this was missed. So I'm inclined to say this was an error by both contractors. There's nothing to suggest either contractor was unable to*

locate the manhole, or that there was something preventing them from recording it. AXA's use of the word regretfully also indicates this was an error.

- Therefore, I'm of the opinion that the manhole and the corresponding drain should have been spotted earlier. This means the build over notice (BON) would have been requested earlier and the design for the new conservatory would have taken into account the manhole and corresponding drain earlier too.*
- AXA says it realised a BON was needed in April 2022, after the manhole was discovered in March 2022. The BON was then granted in September 2022. This process took roughly five months.*
- However, as above, I think this should have been spotted earlier. And I think this should have been reasonably spotted before the design was sent to the relevant contractor in June 2021. A delay of roughly 10 months.*
- I'm mindful that AXA has said the conservatory needed demolishing, and this was done in March 2022. I've not seen any evidence to suggest this could have been done sooner.*
- But I think that had the BON notice been applied for earlier, a suitable design would have been achieved, and the building of the new conservatory would have been able to commence shortly after the old conservatory was demolished. This is because the BON notice took five months to be granted, and the delay was longer than that, at 10 months.*
- So, I think the error in not spotting the manhole meant Mrs H was without her conservatory for longer than needed. And I think that time period is roughly six months (from when the conservatory was demolished in March, to when the BON was granted in September).*
- Mrs H says she used the conservatory as her dining area, so, while I'm conscious she had the use of the remainder of the house, being without her conservatory for around six months longer than necessary would have caused distress and upset. I'm not persuaded £125 is fair compensation for that. I think an offer of a further £500 is fair and reasonable in the circumstances."*

Mr H replied and in summary, accepted the further compensation I'd recommended.

AXA didn't respond.

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.

Based on the responses to my provisional decision set out above, I see no reason to depart from its reasoning or its findings. Therefore, my final decision reflects that provisional one.

My final decision

For the reasons set out above, my final decision is that I uphold Mrs H's complaint. To put things right AXA Insurance UK Plc needs to:

- Pay Mrs H an additional £500 compensation for the distress and inconvenience

caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 16 August 2023.

Joe Thornley
Ombudsman