

The complaint

Mr and Mrs S complain about how AXA Insurance UK Plc considered a claim they made on their home insurance (contents) policy.

AXA are the underwriters (insurers) of this policy. Part of this complaint concerns the actions of their appointed agents. As AXA have accepted they are responsible for the actions of their agents, in my decision, any reference to AXA should be interpreted as also covering the actions of their appointed agents.

What happened

The background to this complaint is well known to both Mr and Mrs S and AXA. In my decision, I'll focus mainly on giving the reasons for reaching the outcome that I have. Although this was a joint policy, as Mrs S has largely been dealing with this complaint, my decision will only refer to her.

Mrs S had a home insurance policy with AXA since 2013. This included contents cover. In July 2022, Mrs S notified AXA that she'd been on a walk with her dog and the diamond from her ring had fallen out.

AXA considered the claim but ultimately declined it. As part of the claim consideration the ring was valued at around £2,505. AXA said for cover to be provided outside of the home - as the value was above £1,500, it needed to be a named item on the policy.

Mrs S said they'd paid £1,200 for the ring and therefore didn't think she needed to name it under the policy. AXA said responsibility lay with the policy holder to ensure that she was fully covered given that the value of jewellery can fluctuate over time.

Unhappy, Mrs S referred her complaint to our Service for an independent review. Our Investigator recommended that this complaint be upheld. As AXA didn't agree, the complaint has been referred to me for a 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.

This decision only addresses those issues I consider to be materially relevant to this complaint. This isn't meant as a discourtesy to either party – it simply reflects the informal nature of our Service.

AXA did not engage effectively with our Service during the course of our initial investigation into this complaint. Our investigator made repeated information requests for AXA to send important information. This is very disappointing.

AXA have argued that The Consumer Insurance (Disclosure and Representation) Act 2012 (CIDRA) isn't relevant here as:

'misrepresentation only applies when something has been 'represented' in the first place. In this case the customer never took out cover for specified items and we do not feel it is relevant whether we would have offered cover and at what cost.....'

I don't necessarily agree with this. I say this as, although the policy 'renewed' yearly, Mrs S was still entering into a new contract of insurance at every renewal. At each renewal point since 2013, Mrs S will have (in summary) been asked to confirm that her circumstances/the insured risk hadn't changed since the previous year. I'm making this point as our general approach to this type of complaint would be that CIDRA is applicable. Please see our published approach here: <https://www.financial-ombudsman.org.uk/businesses/complaints-deal/insurance/misrep-and-non-disclosure> However, I've considered this complaint under our fair and reasonable remit.

Have AXA fairly and reasonably considered this claim in line with the policy terms?

AXA declined this claim as the ring hadn't been specified as a high risk item by Mrs S under the policy. AXA said that if any item was worth more than £1,500 it needed to be named under the policy to be covered outside of the home.

Mrs S provided evidence that when she purchased the ring in 2014 she paid £1,200 for it. AXA have said that jewellery can fluctuate in price and the responsibility lies with the policy holder to ensure they're fully insured.

AXA have said the cost of a replacement diamond was £2,505. It's important to point out that the actual value of the ring may be more than this as, based on the evidence provided, this was the cost of the diamond replacement only.

I don't consider that AXA have treated Mrs S fairly here. I say this because, in the specific circumstances of this complaint, I find it an unreasonable expectation that at the point of each renewal Mrs S would need to get any items costing below £1,500 valued. A quick search online shows that a valuation per item can cost anything from £30-£100. Keeping in mind this policy cost £432.24 at the 2021 renewal - this is an unreasonable expectation.

Mrs S did previously name two mobile phones and a laptop as named items to be covered away from the home. But I don't find that Mrs S has tried to misrepresent the risk insured. Instead, I find that she acted in good faith when not naming the ring under the policy, as she'd paid £1,200 for it.

I'll cover off what AXA need to do to put things right later in my decision.

How have AXA treated Mrs S overall?

Our Investigator recommended that AXA pay Mrs S £100 in recognition that their actions in handling this complaint will have caused her avoidable trouble and upset. I find this to be fair, reasonable and proportionate – relative to the impact of AXA's actions on Mrs S.

Putting things right

AXA Insurance UK Plc now need to reconsider this claim in line with the remaining policy terms. Should this be a claim that progresses to settlement, AXA need to give Mrs S the option* of either:

- Having the claim settled (subject to any policy excess) up to a limit of £1,500. This reflects that the ring didn't need to be a named item - should its' value be below £1,500. 8% simple interest should be added to any settlement amount from four weeks after the date of claim notification until the date payment is made to Mrs S; or
- Having the full claim settled proportionally, without any additional premium, subject to any policy excess - based on Mrs S being underinsured for the ring. 8% simple interest should be added to any settlement amount from four weeks after the date of claim notification until the date payment is made to Mrs S; or
- Having the claim settled in full, subject to any policy and subject to Mrs S paying any increased premium that would've been due had she declared the value of the ring renewal in November 2021. 8% simple interest should be added to any settlement amount from four weeks after the date of claim notification until the date payment is made to Mrs S.

* AXA Insurance UK Plc need to ensure Mrs S is fully informed about any settlement amount she'd receive – before she decides her preferred option. All the above is subject to the remaining policy terms.

My final decision

My final decision is that I uphold this complaint and direct AXA Insurance UK Plc to follow my direction as set out under the heading 'Putting things right'.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs S to accept or reject my decision before 22 September 2023.

Daniel O'Shea
Ombudsman