

## **The complaint**

Mr and Mrs M complain that AXA Insurance UK Plc turned down their buildings insurance claim.

## **What happened**

Mr and Mrs M hold buildings insurance cover with AXA. In 2023, they made a claim under the policy for accidental damage to underground pipes.

AXA turned down the claim. It thought the damage to the pipework was due to poor workmanship and wear and tear, which were excluded under the policy. Mr and Mrs M complained about AXA's handling of the claim, and said they were unhappy with AXA's claims decision.

AXA accepted it had provided Mr and Mrs M with a poor service and paid them £150 compensation for this. Mr and Mrs M accepted this compensation, but asked AXA for more information about why their claim had been turned down. They then brought a complaint to the Financial Ombudsman Service.

Our investigator recommended the complaint be upheld. He noted there was a blockage in the main drainage system, and this was thought to be due to debris entering the system because a pipe hadn't been capped off. He said AXA hadn't shown there was a requirement to cap off the pipe, and so he didn't think it could fairly say there was poor workmanship. He recommended AXA accept this aspect of the claim.

The investigator also noted there were some pitch fibre pipes that were blistered and damaged, but he said AXA hadn't shown the damage was caused by wear and tear. He recommended AXA reconsider the claim for damage to the pitch fibre pipes.

Finally, our investigator thought the £150 compensation offered by AXA had been reasonable for its handling of the claim.

AXA didn't respond to our investigator's recommendations, and so the matter has been passed 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.

I understand Mr and Mrs M accepted AXA's offer of compensation for the poor handling of the claim and that this has been paid, so I won't consider this further.

Although AXA's final response to the complaint didn't address its decision to turn down the claim, I see from its file that part of Mr and Mrs M's initial complaint did include this. I've therefore considered its claims decision.

The policy includes full accidental damage cover caused by the insured, their guests or vermin. Accidental damage is defined in the policy as *'Sudden, unexpected and unforeseen event that causes visible damage.'*

AXA has relied on the following two policy exclusions to turn down the claim:

*'Damage due to faulty design or workmanship'*

and

*'Damage caused gradually by wear and tear...'*

Mr and Mrs M's drainage contractor initially attended as they had reported a blocked drain. The contractor said their engineer found a manhole full of shingle which was cleared. Once that was done the engineer found an old redundant pitch fibre pipe full of shingle. They left the drainage system clear of shingle pending repair. When they returned a few weeks later the manhole had been blocked up again with shingle, and they believed this to be the result of rats entering the drainage system.

AXA's drainage contractor then carried out an inspection. The loss adjuster later wrote a report and said debris had entered the system through a disused drain run. They said the pipework hadn't been capped off properly and this had allowed vermin to access and bring debris into the active drainage system causing a blockage. The loss adjuster thought this was a poor workmanship issue.

The loss adjuster also said that investigations confirmed there was blistered pitch fibre pipework as a result of age-related wear and tear within the main foul water drain that was restricting flow. They said six metres of pipework required re-rounding and drain lining to resolve.

Our investigator asked AXA to show what requirements hadn't been met to support its conclusion that there had been poor workmanship. In response, AXA provided an extract from the Building Regulations 2020 'drainage and waste disposal'.

This document says that Building Regulations don't include requirements for the continuing maintenance or repair of drains, but local authorities have powers to ensure that disused drains and sewers are sealed. It explains that's because they offer ideal harbour for rats. It also explains that under Section 62 of the Building Act 1984, any person who carries out works which result in any part of a drain becoming permanently disused they should seal the drain at such points as required by the local authority. It further says that disused drains or sewers should be disconnected from the sewer system as near as possible to the point of connection.

The loss adjuster says the property was built 1960 – 1970, though Mr and Mrs M told AXA when taking out the policy the property was built around 1930. In any event, we don't know when the pipework was installed, though this was presumably when the house was built. Most importantly though, we also don't know when that part of the drainage system became redundant.

If we knew this had happened after the Building Act 1984 came into effect, then I think it would be reasonable to say it ought to have been capped off or disconnected from the drainage system. And that in failing to do so, there was poor workmanship. However, as we don't know when this happened, I can't say the pipework not being capped off didn't comply with relevant standards at the time it became redundant.

So in these circumstances, I agree with our investigator that AXA hasn't shown the poor workmanship exclusion applies to the blockage that was caused by vermin.

I haven't seen AXA's contractor's findings about the damage to the pitch-fibre pipework, only the loss adjuster's comments. They said part of the pipe had blistered and needed repair due to wear and tear. Deterioration of pipes made from this material is common and tends to lead to blistering. So if the blistering is the only reason needed for the repair, then I would agree with AXA that this is wear and tear and therefore it would be reasonable for AXA to turn down the claim. However, Mr and Mrs M say they were told by their contractor that the debris had damaged the pitch fibre pipe, and it's not clear to me from the available evidence if this is the case.

I think the fairest way forward here would be for AXA to establish with its contractor whether the repair to the pitch fibre pipe is needed because of the blistering, or if there's other damage to the pipe. It should then reconsider the whole claim, including the blockage, without relying on the exclusion for poor workmanship. We've discussed this with Mr and Mrs M and they're in agreement with this approach.

Finally, Mr and Mrs M are unhappy that AXA wouldn't provide a copy of its drainage contractor's report. I don't know if there is a report, as I've only seen the loss adjuster's comments after the drainage contractor attended. AXA has provided Mr and Mrs M with a redacted copy of the loss adjuster's comments, which I think was reasonable.

### **My final decision**

My final decision is that I uphold this complaint. I require AXA Insurance UK Plc to establish whether the repair to the pitch fibre pipe is only needed because of the blistering or if there's other damage to the pipe. It should then reconsider the whole claim, including the blockage, without relying on the exclusion for poor workmanship.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs M to accept or reject my decision before 24 April 2024.

Chantelle Hurn-Ryan  
**Ombudsman**