

The complaint

X complains about AXA Insurance UK PLC (AXA) who declined his claim under his home insurance policy.

What happened

X held a policy with AXA. He made a claim following a leak at his home. He advised AXA the leak was coming from an enclosed shower pod/tray with shower jets. AXA appointed a surveyor to validate the claim. In the meantime, X removed the shower pod and stripped out the bathroom. X also said his plumber had told him the leak was due to the movement of the jets, which have failed and caused water to escape.

AXA's surveyor found the leak had been ongoing for a long period and not because of a one-off incident. Also, the leak was due to failed grout/sealant. So, AXA declined X's claim due to the policy exclusion of loss or damage caused by the failure of grout or sealant is not covered.

X raised a complaint to AXA and submitted an independent plumber's reports as well as photos he said supported his position that the leak was due to the shower. In its final response, AXA considered X's plumber's report but said the decision to decline the claim was correct. It said its surveyor had shown the damage was caused by a failure of grout/sealant. And the leak had occurred over a period.

X referred his complaint to this Service for an independent review, as he remained unhappy with AXA's position.

An Investigator considered the complaint and didn't think it should be upheld. She considered both expert reports and found AXA's expert report more persuasive as it provided detailed reasoning behind the opinion it gave. She concluded AXA were reasonable to decline the claim.

AXA accepted the view, X did not. He reiterated his complaint points and said AXA had shown no evidence of where the leak came from.

As the matter couldn't be resolved, it 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.

Having done so, I don't uphold this complaint, for much the same reasons as the Investigator. I understand this will be a disappointment to X, but I hope my findings go some way in explaining why I've reached this decision.

X complains about the declined claim. He said AXA hasn't provided any evidence of where the leak came from. He said the floor wasn't level, so the water would've run down to the partition wall and held there. And maintained his plumber's opinion - the leak came from the sealed shower control panel was persuasive. His report states:

'Leaking from sealed shower control panel. Removed and disposed of the Shower pod. There was no sign of any other leaks from the shower pod.'

Having reviewed AXA's surveyor's report it concludes the leak had been ongoing for a long time and was caused by failed grout/sealant. It states:

'There is a good possibility that the damage is as a result of failed sealant and grout, particularly in the corner where the enclosure would have been as the plasterboard on the other side has moisture at a high level, which is an indicator of failed sealant and grout. There was a tiled floor which went beneath the shower, if the leak was from the pipework, then the water would likely have sat on the tiles. The damage is consistent with an ongoing issue over a period of time'.

I accept X's plumber saw the leak. But the report he has provided I think lacks detail. There is no information in it which explains how such extensive damage was caused by the leak. Nor was there information as to what was leaking in the shower. And no information as to how long the leak had been happening.

I found the report from AXA's surveyor, was detailed, provided a clear opinion, and supported this reasoning with photos of the area. I'm persuaded the report evidenced, the leak had been ongoing for a period and was caused by the failure of grout or sealant.

Moreover, from the correspondence from X, he appears to accept the leak had been happening over a period:

'Based on the report you have sent over – the first paragraph states that the water would have gone onto the tiles, through the tiles over time and soaked through the ply and onto the parquet floor causing damage. This is exactly what has happened.'

AXA relied upon its expert's report and declined the claim under the following policy exclusions: *'What your policy does not cover • Loss or damage caused by failure or lack of sealant and / or grout.'* As well as the gradual deterioration exclusion.

What we decide in a matter like this, is whether the insurer has acted in accordance with the terms and conditions of the policy, which set out the agreement between the parties considering all available evidence. And I'm satisfied AXA did. I say this, because the exclusion terms allow AXA to decline claims where damage is caused by failed sealant or grout. Or where the damage was caused gradually. Taking everything into account, I'm not persuaded AXA was acting unfairly or unreasonably when it did this.

In summary, having considered the complaint X has raised against AXA, I don't agree it acted unreasonably in declining X's claim. I understand this will be a disappointment to him, but I won't be asking AXA to do anything further to resolve this complaint.

My final decision

For the reasons given, I don't uphold X's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask X to accept or reject my decision before 25 March 2024.

Ayisha Savage
Ombudsman