

## **The complaint**

Miss P complains that AXA Insurance UK Plc declined a claim on her buildings insurance policy but still recorded it on the Claim and Underwriting Exchange (“CUE”).

Where I refer to AXA Insurance UK Plc, this includes its agents and claims handlers acting on its behalf.

## **What happened**

Miss P has had her property insured for a number of years through an insurance broker (which I’ll call P). The policy was underwritten by AXA in the period up to April 2023. After that, it was underwritten by a different insurer, which I’ll call R.

Soon after the renewal, Miss P found her property had failed a gas safety check as a result of damage to the boiler flue. She got in touch with R about it. R began looking into the claim but said as it had only insured Miss P for a few days before the damage was discovered she should get in touch with AXA.

Miss P did so and AXA initially told Miss P it would pay the claim but then said it wasn’t covered.

In response to Miss P’s complaint, AXA said the claim was correctly declined but it should not have been recorded and there had been some poor service. AXA paid compensation of £75 to Miss P.

Our investigator thought damage of this nature was covered and it wasn’t fair for AXA to say the loss happened after the policy had renewed. She also thought the compensation AXA had paid wasn’t enough to reflect the distress caused to Miss P.

The investigator asked AXA to reconsider the claim and, if it was paid, add interest to reflect the fact Miss P had been out of funds since having to pay the costs herself. She thought a further sum of £75 should be paid to bring the total compensation up to £150.

Miss P accepted what our investigator said but AXA doesn’t agree. It says in these circumstances the insurer at the time of the claim should cover the loss and then approach the previous insurer. It questions what evidence there is that the damage happened while it was providing the insurance cover. And it says if the claim is reconsidered then it would have to record this on CUE again.

## **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.

The relevant industry rules and guidance say insurers must deal with claims promptly and fairly; provide reasonable guidance to help a policyholder make a claim and appropriate information on its progress; and not unreasonably reject a claim. They should settle claims promptly once settlement terms are agreed.

The evidence shows the damage to the flue was most likely deliberate. The plumber who carried out the gas safety check said a new boiler was needed because the flue was

damaged after having a screw drilled through it. The plumber said this had “definitely been done on purpose”. I haven’t seen any other professional evidence about the damage to contradict this.

The policy provides cover for malicious damage so on the face of it, the claim would be covered. But AXA says the damage happened after the policy ended so it should be covered by R, her new insurer.

Miss P bought her policy through P, which is an insurance broker, not an underwriter. And it may move Miss P to a different underwriter when renewing the policy, which is what happened here.

This complaint is against AXA, so I can only consider the way AXA dealt with the claim. I can’t consider the actions of P or the way R dealt with the claim Miss P made to them. Miss P also complained about the decision by R not to cover the claim and that has been considered separately.

The issue is whether the damage happened while AXA was the insurer or after the policy had renewed and R became the insurer.

The problem was discovered on 21 April 2023 during a gas safety check. The previous check was carried out around a year earlier. AXA says it’s more likely the damage happened after the policy renewed – in the few days between 16 and 21 April.

New tenants moved in around January 2023 and say they were unaware of the problem. The damage was discovered during the gas safety check. The flue was in the loft, it wasn’t part of the inventory checks when the tenants changed, and hadn’t interfered with the usual working of the boiler.

On balance, I think it’s more likely the damage happened during the time when AXA was the insurer than in the five days in April 2023 between the renewal and the damage being discovered.

For these reasons, AXA’s decision to reject the claim was not fair. It should now consider the claim in line with the remaining terms and conditions. If the claim is paid, interest should be added and I think the fair date to apply that would be 31 May 2023.

AXA has accepted it could have handled the claim better. It gave conflicting information to Miss P who thought the claim would be covered only to be told it wouldn’t. Taking into account the upset caused to Miss P a further payment of £75, to bring the total compensation to £150, is fair.

Miss P was unhappy about the claim being added to CUE when it hadn’t been accepted. That wasn’t correct, but if the claim is now accepted then it would be reasonable for AXA to record that.

### **My final decision**

My final decision is that I uphold the complaint and direct AXA Insurance UK Plc to

- accept the claim and assess it in line with remaining policy terms
- if the claim is paid, add 8% simple interest from 31 May 2023 to the date of settlement\*

- pay a further £75 compensation for the distress and inconvenience caused, to bring the total compensation up to £150.

\* If AXA Insurance UK Plc considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Miss P how much it's taken off. It should also give Miss P a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

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

Peter Whiteley  
**Ombudsman**