

## The complaint

Mr and Mrs M complain that AXA Insurance UK Plc (“AXA”) unfairly declined a claim made under their landlord’s buildings and contents insurance policy.

## What happened

Mr and Mrs M made a claim when the electricity supply was disconnected at a rental property they own. Mr and Mrs M found that this had been due to their tenants cultivating cannabis at the property. AXA declined the claim, saying it couldn’t cover the issue under the “Malicious People” section of their landlord policy, and so they couldn’t cover Mr and Mrs M’s claim for loss of rent either.

Mr and Mrs M complained to AXA, saying their tenants had directly caused the electricity supply to be disconnected, by cultivating drugs at the property. AXA considered the complaint but didn’t change its position on the claim.

Because Mr and Mrs M didn’t agree with AXA, they referred their complaint to this service. Our Investigator considered it and thought it should be upheld. She said the policy covered loss or damage caused by malicious people and the tenants had caused a loss by tampering with the electricity supply. She recommended AXA reconsider the claim.

AXA didn’t accept our Investigator’s recommendations. It said the disconnection of the electricity supply wasn’t due to malicious damage. So the complaint has now been passed to me to decide.

## 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’ve decided to uphold this complaint. I’ll explain why.

As with any insurance claim, the onus is on the policyholder to evidence that an insured event has occurred. It’s for the insurer to either show that no insured peril has occurred, or – if an insured event *has* taken place – it’s for the insurer to demonstrate that a valid exclusion applies in order to decline the claim.

In this case, Mr and Mrs M believe there to have been an insured event, because they’ve suffered a loss as a result of their tenants illegally cultivating drugs at the property. AXA doesn’t believe an insured event has taken place because the electricity supply was cut off by the National Grid, not damaged by the tenants directly, and it doesn’t consider this to fall within the definition of malicious damage.

I’ve considered what the terms and conditions of the policy say. The “Malicious People” section of the policy states that the insurer will cover *“loss or damage caused by malicious people...lawfully allowed in the private residence”*. It goes on to say that the claim limit under that section is £5,000. Exclusions include where the malicious damage has been caused by

the policyholder, or where the property has been left unoccupied, for example.

I've thought carefully about the policy wording and considered whether AXA has applied these terms fairly in this case.

It's not in dispute that the issues with the electricity were not caused by Mr and Mrs M, and were caused by the tenants' illegal activities. I say this because the information from the electricity provider makes me think it's likely that the tenants tampered with the electricity supply in order to grow cannabis. And because this can potentially make the electrics at the property unsafe, they had to be disconnected.

But AXA has said that there's no insured peril here as the National Grid disconnected the electricity – and not the tenants themselves, in effect saying that the damage wasn't caused by malicious people. It's said that because of this, it can't cover the loss under the "Malicious People" part of the policy, and the consequential loss of rent claim can't be considered as a result.

But I don't think AXA has applied the "Malicious People" term fairly here. The policy term states that the insurer will cover "*any loss...caused by malicious people*". The evidence shows that the tenants set up a cannabis farm and tampered with the electricity in order to do so. In my view, this was the sole and direct cause of the National Grid cutting off the electricity supply, for safety reasons. Because this led to Mr and Mrs M incurring a loss of over £3,000 to reconnect the supply, and incurring a loss of rent while the electricity was disconnected, I consider that there was a financial loss in this case which was directly caused by malicious people.

I don't therefore consider that AXA has declined the claim fairly on the basis that there was no insured peril and it should reconsider the claim.

### **Putting things right**

AXA Insurance UK Plc must now reconsider the claim in line with the remaining terms and conditions of the policy. If it accepts the claim it should also consider the loss of rent claim.

AXA Insurance UK Plc must also add 8% simple interest to any payments it makes to Mr and Mrs M, from the date the claim was made until the date of settlement.

### **My final decision**

My final decision is that I uphold this complaint and I direct AXA Insurance UK Plc to put things right as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M and Mr M to accept or reject my decision before 12 July 2024.

Ifrah Malik  
**Ombudsman**