

The complaint

Mr H complains about AXA Insurance UK Plc's (AXA) handling of the claim and declining to pay the difference between market rent and the rent he has been receiving on his Landlord Insurance Policy.

Any reference to AXA includes respective agents.

What happened

The background of this complaint is well known to both parties. So, I'll summarise the key points I've focused on within my decision.

Following a subsidence claim made on the policy, Mr H having had tenants in the property from November 2022 would like AXA to pay the difference between market rent and the reduced rent he has been receiving due to the tenants living with the subsidence conditions. He also wants compensation for the delays and service issues he has experienced.

AXA has said there is no cover because alternative accommodation was not required, given the property was habitable. And in its final response letter (FRL) dated 24 March 2023 it accepted that there had been delays in responding to correspondence and progress of the claim and offered £150 compensation.

Our investigator upheld the complaint. Mr H accepted the Investigator's findings, but AXA said the policy Mr H has doesn't cover the difference in loss of rent "LOR". So, the complaint has been passed to me, an Ombudsman to make a final decision.

I issued a provisional decision on 31 May 2024 that said the following:

I have already issued a jurisdiction decision on what I can and can't cover under the merits of this complaint. So, to be clear I am only considering if AXA should be paying the difference in market rent and the rent Mr H has been receiving from his tenants since November 2022. And I can look at the delays and service issues experienced after the FRL issued on 23 November 2022 up until the FRL issued on 24 March 2023.

In making my decision I need to consider what's fair and reasonable in all the circumstances of the case, taking into account relevant law and regulations; regulators' rules, guidance, and standards; codes of practice; and (where appropriate) what I consider to have been good industry practice at the time.

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 to unreasonably reject a claim. Insurers should settle claims promptly once settlement terms are agreed.

Firstly, I have looked at the policy document to see what it covers. Section 2 of the policy covers "Rental Income", and I can see that is what our Investigator relied on to make her finding. Having looked at the schedule of cover for the policy Mr H was paying for he didn't

have cover for Section 2. So, I can't consider this section of the policy for the difference in LOR, and I can't see that LOR is covered under any other section of the policy Mr H has.

So, I'm satisfied on the evidence I've seen that Mr H isn't covered for LOR under his policy and so I don't intend to instruct AXA to pay the difference for this.

I've gone on to look at the delays in AXA responding to correspondence and the progress of the claim that AXA addressed in its FRL issued 24 March 2023.

It isn't in dispute that there have been some delays in responding to Mr H and the claim hasn't progressed in a timely manner as it should have. However, the nature of insurance claims, especially subsidence claims often means there are some delays. Therefore, when assessing how an insurer handled a claim, we only look to compensate for any avoidable delays caused.

Having reviewed the events, I'm satisfied that AXA could've at times handled the claim better and kept Mr H updated on progress. I can see there have been delays in responding to some emails sent by Mr H and he had to chase for updates. There were also delays in progressing the claim especially with regards to getting the readings for any monitoring of movement at the property. It seems this has been compounded by the decision for AXA to work in conjunction with the neighbour's insurer whose property is also suffering from subsidence.

AXA has accepted that there has been avoidable delays and a lack of progress on the claim. It's offered £150 for the distress and inconvenience this has caused Mr H and I'm satisfied this is fair. I say this because this is the amount, I would've directed AXA to pay for the level of avoidable delays during the period mentioned, and for the impact of the delays on Mr H. For these reasons, I don't intend to ask AXA to increase it.

It follows, if it hasn't done so already, AXA must now pay the compensation amount of £150 to Mr H within 14 days of us telling it that Mr H accepts my final decision.

Replies to the provisional decision

Neither party responded to the 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.

As I've received no further comments from either party in response to my provisional decision, I'm satisfied that my provisional decision represents an outcome that's fair and reasonable.

My final decision

AXA Insurance UK Plc has already made an offer to pay £150 compensation and I think this offer is fair in all the circumstances.

If it hasn't done so already, my decision is that AXA Insurance UK Plc should pay £150 within 14 days of us telling it that Mr H accepts my final decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 17 July 2024.

Angela Casey
Ombudsman