

The complaint

Ms G complains about how AXA Insurance UK Plc have dealt with a flood claim under a buildings and contents insurance policy.

All references to AXA are intended to include actions of its appointed agents.

What happened

The details of this complaint are well known to both parties. So, what follows here isn't intended to be a full recap of everything that has happened. Although I have considered all the evidence and the comments made by the parties, this decision won't therefore include all of the events, details or points of dispute between the parties. I will here, and throughout my decision, only concentrate on the information I feel I need to include in order to explain my decision.

Ms G's property flooded in October 2019, and she made a claim to AXA for damage relating to that flood. The property had been stripped out downstairs with contents removed to allow the property to be dried. Ms G opted to stay in the property and be given a disturbance allowance.

Unfortunately, the property flooded again in February 2020 and Ms G made a further claim to AXA.

AXA made a payment to Ms G for most of the contents that had been damaged during this flood however it had questions over a sauna, red light therapy unit/collagen canopy and two vibro plates which were in a summerhouse that was also damaged and additionally, a hot tub. These have not yet been paid for. AXA also refused to pay for items that had been lent to or borrowed by Ms G, as the policy excludes payment for such items. Ms G was unhappy about this and complained to AXA.

AXA has wider concerns about the flood claims which meant it put the claim on hold and did not progress the matters Ms G complained about. Ms G therefore brought her complaint to this service to consider.

Further Developments

I sent my provisional findings to both parties setting out that I thought the complaint points Ms G had raised should be upheld.

AXA responded saying that while it didn't intend to challenge my findings it reiterated its opinion that the award limit of £355,000 would apply to the totality of the complaint points Ms G had raised about each flood claim. Other points are being dealt with under different complaint references at this service.

Ms G provided a detailed response to my findings. Overall while she was happy that I was intending to uphold her complaint, she said there were aspects of my findings that she didn't believe she had asked me to consider or that she didn't require me to make a finding on.

She specifically asked that I not consider the service she received from AXA in dealing with the claim(s) or consider if any compensation is due as this is something she will pursue separately.

In considering both responses, I gave further thought to the matters Ms G raised and how they relate to how a complaint is defined within the Financial Conduct Authority's Handbook Glossary. This says a complaint is....." *any oral or written expression of dissatisfaction, whether justified or not, from, or on behalf of, a person about the provision of, or failure to provide, a financial service..... which (a) alleges that the complainant has suffered (or may suffer) financial loss, material distress or material inconvenience; and (b) relates to an activity of that respondent...*"

Having given further consideration to the issue, I decided to issue new provisional findings which I believed more accurately reflect the matters in dispute.

Ms G has referred a number of complaints to us in relation to the three flood events in 2019, 2020 and 2021. Three of the complaints are open and I will be issuing decisions on them. Although this decision only relates to one complaint, I think it will help the parties understand my reasoning if I explain how I have analysed the three complaints and the acts or omissions which fall within each complaint.

I have considered whether the different complaint points which Ms G has raised are about one or more "provision[s] of, or failure[s] to provide a financial service". In my view, the majority of the issues which Ms G has raised all stem from the 2019 flood claim and how AXA has handled the reinstatement of the property following that claim. I think its handling of this claim was the provision of a single financial service.

I think the contents claims relating to the 2020 and 2021 floods are separate issues resulting from separate acts or omissions by AXA, each of which involved the separate provision of a financial service, and they are therefore the subject of separate complaints and award limits.

In this decision I will cover the claim relating to specific items damaged in the 2020 flood.

I have also recorded in this decision that Ms G has asked me not to consider the impact on her of the service provided by AXA and delays.

AXA has also said that it thinks Ms G is in breach of the fraud condition in the policy in respect of all three flood claims. I have considered the main issues relating to the fraud allegations under one of the other complaint references.

My provisional findings

I issued my provisional findings on 3 June 2024; I said I intended to uphold the complaint for the following reasons:

"AXA hasn't raised any specific fraud concerns relating to the matters covered in this decision however, its wider concerns have been addressed under a different case reference, so I won't be repeating them here. I have explained under the other case reference why I have decided that AXA cannot rely on the fraud condition and must continue to review the claims in line with the remaining terms and conditions of the policy. This decision will therefore concentrate on specific issues Ms G has raised in relation to the 2020 flood. For ease I will use subheadings.

Items specifically damaged by the 2020 flood.

Ms G has specifically mentioned a sauna, red light therapy unit/collagen canopy and two vibro plates are being treated as 'contents' by AXA but have not yet been paid for. There has also been mention of a hot tub and the summerhouse itself which are potentially being allocated to 'buildings' cover.

It appears from the file that AXA provisionally accounted for these costs but never made payment to Ms G due to the wider concerns it had. However, there is no dispute these items existed and were damaged in the flood in 2020. So, I think AXA needs to settle its liability in this respect as quickly as possible.

Unfortunately, due to global issues, prices have risen quite considerably in the intervening period. Ultimately however it was within AXA's control to make a payment and it chose not to. It must therefore now settle these items at the current rates. This will mean it will need to obtain up to date quotes for replacement.

So, my decision is that AXA should ensure the specific items above, damaged in the 2020 flood claim, be settled at current market rates as quickly as possible.

There is an issue regarding visitor items in the property. Visitor items are covered by the policy but payment for those items would be made to the visitor concerned, these aren't payments that would be made to Ms G.

Service

I haven't included arguments or any determination about the delay in settling Ms G's claim or, the customer service AXA provided, as Ms G has asked me not to. Therefore, I've not made any consideration for a payment for trouble and upset in line with our usual approach given Ms G's position on the issue.

My provisional decision

I intend to uphold the complaint and direct AXA Insurance UK Plc to do the following to put things right:

- Ensure that the sauna, red light therapy unit/collagen canopy, two vibro plates, hot tub and summerhouse which were damaged in the 2020 flood claim are settled at current market rates as quickly as possible".*

Responses to my provisional decision

Ms G said that she had nothing further to add and hoped the matter would be settled in line with my provisional findings.

AXA responded reiterating its thoughts on why it thought it should be able to rely on the fraud condition in respect of all three complaints this service is considering. It didn't provide any specific points relating to the content of this 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 mentioned in my provisional decision. AXA's reliance on the fraud condition in the policy has been considered in full under a separate complaint at this service. It has been decided

that AXA can't rely on the fraud condition to decline the claims under the policy in respect of each of the floods in 2019, 2020, and 2021. It must continue to deal with them in line with the remaining terms and conditions of the policy.

As neither party has provided any additional comments for me to consider, having reviewed everything again, for the same reasons as set out in my provisional decision, my decision is that Ms G's complaint about the specific items covered in this decision, that were damaged in the 2020 flood, should be upheld.

I haven't made an award of interest on the amounts to be paid to Ms G, as I think directing AXA to pay the current market rate for the items ensures as far as possible Ms G is adequately indemnified for the loss incurred.

My final decision

My final decision is that I uphold Ms G's complaint against AXA Insurance UK Plc. I direct it to do the following:

Settle the claim for the sauna, red light therapy unit/collagen canopy, two vibro plates, hot tub and summerhouse which were damaged in the 2020 flood, by making a payment to Ms G reflecting the cost of those items at current market rates, as quickly as possible.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms G to accept or reject my decision before 15 August 2024.

Alison Gore
Ombudsman