

## **The complaint**

Mr and Mrs B complain about the way AXA Insurance UK Plc has handled a claim they made under their home insurance policy.

Mr B has primarily dealt with the complaint so, for ease of reading, I'll mostly refer to him.

## **What happened**

The circumstances aren't in dispute, so I'll summarise the background:

- Mr B got in touch with AXA about crack damage to his property in June 2021. AXA appointed a loss adjuster, C, to look into the claim.
- C initially said the damage had been caused by subsidence and was covered by the policy. It carried out investigations into the cause of damage and found defects in the underground drainage system, which the local water authority repaired.
- C arranged for a builder to schedule repairs and prepare to start work. Mr B was asked to pay the excess in anticipation of this, which he did. Due to concerns that movement may be continuing, C paused the building work and arranged for level monitoring. It said this didn't show subsidence movement.
- C later inspected the damage and reviewed the matter afresh. It said the damage may not have been caused by subsidence, but rather by lateral movement, which isn't covered by the policy. It looked into the cause of damage further.
- A number of complaints arose about the way the claim had been handled. AXA reviewed these complaints up to June 2023. It accepted there had been poor service at times and paid compensation.
- In September 2023, C declined the claim. It said the current movement was solely attributable to lateral movement, rather than downward movement (subsidence). And there was historic downward movement. It thought the movement problems had been ongoing for many years and had begun prior to AXA's policy.
- Mr B complained about four main points:
  - The claim had been declined after C had indicated it would be covered and prepared a schedule of repair with the intention to begin building work.
  - The way the claim was handled, including delays and poor communication.
  - He paid the £1,000 excess in March 2022. After the claim was declined, it took until July 2023, and lots of chasing from him, until the excess was refunded. He should receive interest for the time he was without the money.
  - The premium for home insurance had increased considerably since the start of the claim, presumably because it was thought to be subsidence related. This was also impacting his ability to get insurance elsewhere.

- AXA provided complaint responses in September 2023 and November 2023. It also responded to the premium point in 2024. In summary, it said:
  - C found the cause of damage wasn't subsidence, or anything else covered by the policy.
  - There had been avoidable delays and poor communication. It offered a total of £800 compensation to recognise the impact of this on Mr and Mrs B.
  - There had been a delay returning the excess.
  - The premiums hadn't been impacted by recording the claim as subsidence.
- Mr B took advice from a structural engineer, W, who carried out a desktop review. W said, in summary, that the property had suffered from subsidence over many years. But the information available showed no significant movement in recent years. It also said the construction of the property meant it was prone to lateral movement.
- C considered W's review but didn't change its position. It maintained the cause of the current damage was lateral movement – which isn't covered by the policy.
- Our investigator thought the complaint should be upheld in part. She thought AXA had acted fairly in relation to the claim outcome, compensation and premiums. But she thought it had acted unfairly by not refunding the excess sooner. To put that right, she asked AXA to pay interest for the time Mr B was without the excess.
- AXA agreed to calculate and pay interest – or round the likely figure up to £200. Mr B said he didn't feel the compensation offered fairly reflected the impact on him and Mrs B of the way the claim was handled. He also suggested his house may have suffered from a lack of repairs whilst the claim was ongoing. He asked for his complaint to be referred to an Ombudsman.

### **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 our investigator has explained, the scope of the complaint about the claim is limited to events between the complaint responses in June 2023 and November 2023, including the September 2023 complaint response. That's because the complaint response from June 2023, and the earlier ones, were referred to this Service too late to be considered. The scope of the complaint also includes the premium concerns responded to in 2024.
- I'll look at each of the four main complaint points in turn.

#### *Claim decline*

- By September 2023, C and AXA reached the decision to decline the claim.
- My starting point is the policy terms. They say AXA will cover damage caused by subsidence. And they define subsidence to mean downward movement of the site on which the building stands, which is the common understanding. The policy doesn't cover lateral movement in its own right. It may be covered if it amounts to 'accidental damage'. But even if so, the policy doesn't cover damage caused gradually. And the policy doesn't cover damage which happened before it started.

- There's no suggestion the damage was caused suddenly. Whatever type of movement caused the damage, it seems to be accepted it happened gradually. As a result, I think the only way the damage would be covered is if it was caused by subsidence *and* it happened after the policy started.
- So the key question is whether the damage was likely caused by subsidence after the policy started. To decide that, I've considered the opinions of the professionals – C and W.
- As I noted above, C reached a firm position in late 2023 that the recent movement and damage was solely caused by lateral movement. Whilst it accepted there had been subsidence movement and damage, it thought this was all historic and had happened prior to the start of the policy.
- To support this position, C pointed to a pre-purchase survey from 1995 that mentioned 'longstanding movement', images from 2012 onwards showing cracking to the building indicative of movement, and a lack of downward movement recorded in the recent level monitoring.
- In my view, it's clear C has thoroughly considered the cause of damage and relied on objective evidence to support its position.
- W didn't fully agree with all of C's comments. But on the key question, I think it took a similar view. W agreed the level monitoring hadn't shown downward movement. It said the property had suffered subsidence over many years and noted the construction allowed for lateral movement. And, crucially, it didn't say there had been subsidence movement and damage recently.
- As a result, I consider the professional opinion supports the position that AXA has taken – that it's unlikely any subsidence damage happened after the policy began. And, as a result, it was in line with the policy terms to decline the claim. In these circumstances, I'm satisfied AXA acted fairly by declining the claim.
- Because the claim has fairly been declined, I wouldn't expect AXA to pay for the cost of repairing the damage or W's professional advice.
- I understand Mr B has been exploring the cause and remedy of the movement further with W after the November 2024 complaint response. He's entitled to share any further professional opinion he receives with AXA. And, if so, I would expect AXA to consider whether that changes the claim outcome.

### *Claim handling*

- As I noted above, the scope of this complaint begins in June 2023 and ends in November 2023, a period of around five months. As a result, I'm only able to consider the claim handling during that period of time. That means I won't be able to consider many of the points Mr B has made about the overall handling of the claim.
- However, I think it's a relevant matter of fact that earlier in the claim, C said the damage had been caused by subsidence, prepared a schedule of repair in preparation to start work, and collected a £1,000 subsidence policy excess. So it firmly gave Mr B the impression the damage would be covered by the policy.

- In September 2023, C told Mr B that was no longer the case and the claim would be declined. I expect he would have felt badly let down by AXA at that time. It must have been very disappointing and distressing to find the damage wouldn't be covered by the policy after being led to believe it would be for over two years. The damage will cost a significant amount to repair, so it must have come as a very unwelcome and unpleasant shock to discover AXA wouldn't pay for it.
- In addition, it seems to have taken a number of months within the scope of this complaint to reach this outcome and share it with Mr B – which can only have compounded the impact of it.
- Similarly, AXA has accepted communication fell short at times, with Mr B's emails and calls often not responded to promptly – or at all – leading him to often have to chase for responses and updates.
- As a result, I think it's right AXA paid compensation for the impact on Mr and Mrs B of the way it handled the claim. Within the scope of this complaint, it offered £800. I'm satisfied that's a fair and reasonable amount, bearing in mind my consideration is limited to a period of around five months.

#### *Premium increases*

- Mr B noted his premium had increased since he made the claim. He was concerned the subsidence claim may have caused or contributed to the increases. And/or that it may impact his ability to get cover elsewhere.
- AXA said the cause of damage didn't impact the premium increases. So whether the claim was recorded as subsidence, or anything else, at the renewals had no impact on the premium. During our investigation, AXA provided evidence from an underwriter to confirm this was the case. So I'm satisfied the claim being recorded as subsidence at the renewals had no impact on the premium increases.
- When the claim was initially made, it was recorded as 'subsidence' by AXA. I'm satisfied that was reasonable at that time. When it was declined, AXA changed the record to show the cause of damage as 'accidental damage'. As AXA found no evidence of subsidence, I'm satisfied that was a reasonable approach to take. At all times, AXA recorded the claim as accurately as it reasonably could.
- This means Mr B won't have a subsidence claim on his insurance record. Insurers may be able to see he made a claim in 2021, which has been settled, but they will only see it recorded as 'accidental damage'. This is an accurate reflection of what happened, so I'm satisfied AXA has acted fairly on this point.
- As a result of all of this, I'm not persuaded AXA has unfairly increased the premiums it charged. Nor am I persuaded it unfairly impacted the premiums Mr B may have paid with other insurers, or his ability to obtain insurance elsewhere. So I won't require AXA to pay anything for this complaint point.

#### *Excess payment and return*

- This point is largely resolved now. In summary, Mr B paid the £1,000 policy excess in March 2022 when he understood the claim would be accepted and repairs would be carried out. I'm satisfied it was reasonable for AXA to collect the excess at that time.

- After the claim was declined, Mr B was entitled to have the excess returned promptly. However, it took until July 2023 for him to receive it – and he had to chase numerous times to make this happen. I'm not satisfied that was reasonable.
- AXA has accepted that and, after our investigator's involvement, agreed to pay interest for the time it held the excess – or to round up the likely figure to £200.
- Bearing in mind our usual approach to interest, I estimate the amount would be less than £200. And I think it's right AXA pays compensation for the inconvenience Mr B suffered when requesting the excess be returned. I'm satisfied a simple payment of £200 compensation is fair and reasonable, as it covers the likely interest amount and an additional amount to recognise some inconvenience was avoidably caused.
- That means AXA should pay a total of £1,000 compensation. If it's paid any of the £800 already offered, it's entitled to deduct that and pay the remainder.

### **My final decision**

I uphold this complaint.

I require AXA Insurance UK Plc to pay a total of £1,000 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B and Mrs B to accept or reject my decision before 24 February 2025.

James Neville  
**Ombudsman**