

The complaint

Ms S is unhappy with the proposed settlement offered by AXA Insurance UK Plc (AXA) on an escape of water claim under her home insurance policy. She's also unhappy with the overall service AXA provided in the handling of her claim.

What happened

Ms S has a home insurance policy which she first took out in September 2022 and has been renewed annually. The underwriter of the policy is AXA.

On 16 May 2023, Ms S called a plumber to fix an issue and he noticed water damage in the bathroom. So, Ms S contacted AXA.

AXA asked Ms S to get someone to trace and access the leak, and repair it, before further damage was caused. Ms S's plumber located and stopped the leak, which he said was from a burst pipe within the wall.

AXA appointed a loss adjuster. The loss adjuster accepted there had been an escape of water from the burst pipe, but he reported that the shower grouting and/or sealant was also in a poor state of repair, causing a long-term seepage. The loss adjuster also thought the damage to the timbers and floor joists showed there had been a long-term issue.

The loss adjuster drew up a scope of work using the rates available to AXA via its contractor network – which came to £5,340 (net of VAT). AXA offered Ms S 75% of this amount, plus 75% of the cost of her damaged carpet and wardrobe, less her excess. This amount was £6,013.95, less her excess.

AXA offered 75% (rather than 100%) because it didn't think all of the damage had been caused by the burst pipe – but instead it thought some of the damage was likely caused by the poorly maintained sealant or grout. AXA also thought the damage likely pre-dated the inception of the policy, given the rotten joists.

Ms S made a complaint to AXA. She said AXA hadn't considered the total cost she'd incurred, and it should pay 75% of her total cost which was £20,287.51. AXA issued a final response and maintained its settlement offer. AXA also offered £250 compensation for the distress and inconvenience caused to Ms S by the handling of her claim.

Unhappy with AXA's response, Ms S brought her complaint to this service. Our investigator didn't uphold it. She thought the settlement offer from AXA was fair and reasonable. She also thought the £250 compensation offer was fair.

Ms S disagreed with the investigator's findings and asked for the complaint to be referred to an ombudsman. So, her complaint was passed to me to decide.

I issued a provisional decision on 13 September 2024. I said the following:

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Where evidence is inconclusive, incomplete, or contradictory, I've reached my decision on the balance of probabilities. This means I've determined what I consider is more likely to have happened, based on all the evidence that is available and the wider surrounding circumstances.

The relevant regulator's rules say that insurers must handle claims promptly and fairly. So, I've considered, amongst other things, the terms of Ms S's policy and the circumstances of her claim, to decide whether AXA treated her fairly.

The key issue in dispute here is the amount offered by AXA to settle the claim. Ms S says she can't understand why AXA has offered 75% of £6,013.95 when the actual cost to her was £20,287.51. Ms S believes AXA should offer her 75% of £20,287.51.

At the outset I acknowledge that I've summarised this complaint in far less detail than Ms S has, and in my own words. I won't respond to every single point made. No discourtesy is intended by this. Instead, I've focussed on what I think are the key issues here. The rules that govern our service allow me to do this as we are an informal dispute resolution service. I'm satisfied I don't need to comment on every individual point to be able to fulfil my statutory function.

The policy terms and conditions

The policy terms explain there's no cover for damage caused by gradual wear and tear, or for damage caused by an event that pre-dates the inception of the policy. The terms also explain there's no cover where the damage was caused by escape of water due to a lack of sealant or grout.

Whilst there is cover on Ms S's policy for an escape of water from a burst pipe, based on evidence from Ms S's plumber and the reports provided by the loss adjuster, AXA has applied those exclusions to limit the settlement to 75%.

Is the 25% deduction fair?

The plumber who initially detected the leak said:

- He was asked to look at the shower room which had persistent mould in the shower.*
- He'd stripped out the shower and discovered a burst pipe and water had spread right across under the tiles.*
- The area behind the tiles had a clear build-up of water and it was slightly bulging. And when he stepped into the shower tray, it had too much bounce and the sealant came away from the wall.*
- The leaking pipe behind the shower meant there has been a fair amount of water building behind the tile wall, penetrating the joists beneath the shower for some time – perhaps years.*

The preliminary report and the final survey report from the loss adjuster said:

- Most of the bathroom had been stripped out before the survey, so it wasn't possible to see what the area looked like prior to the removal.*
- It's likely water was escaping into the bathroom before the policy started.*
- There was mould and elevated moisture levels in the bedroom adjacent to the shower room. The overall condition of the bathroom displayed significant signs of deterioration of the grouting.*
- As work had already commenced prior to the inspection, there was no evidence of the condition of the shower prior to its removal but the plumber provided his own*

- *comments of the condition of the shower at the time he detected the leak.*
- *The cause of the escape of water wasn't a one-off incident but a long-term leak, as evidenced by the condition of the floor timbers.*

It's not disputed there was a burst pipe which had caused water damage, or that this event and the resulting damage are covered by the policy. But to be clear, even though this leak may have been ongoing for some time and caused gradual damage, which is excluded by the policy, AXA will be aware that our service doesn't consider it fair and reasonable to decline gradual damage where the insured couldn't have reasonably known it was ongoing. Furthermore, whilst the leak may have started before the policy started, the damage had been occurring whilst AXA was on cover for eight months, so it's fair and reasonable for it to deal with the claim.

However, the evidence presented by both parties supports there was another issue here (in addition to the burst pipe) which had, at least, contributed to the damage – that is water escaping from the shower by the poorly maintained grout and sealant. That resulting water damage is excluded by the policy.

So, having considered the evidence presented, on balance, I'm satisfied it's reasonable for AXA to limit its settlement to 75% of the reasonable reinstatement costs. In other words, I consider it reasonable to apportion 25% of the repair costs to the damage caused by the poorly maintained grout and sealant.

What sum should the 75% settlement be based on?

The next question I need to consider is whether the settlement should be 75% of £6,013.95 or 75% of £20,287.51 – or somewhere between.

As I understand, Ms S costs are as follows:

- *Plumbing repairs and bathroom refit: £2,220*
- *Bathroom repairs and tiling: £6,561.60*
- *Shower, tray, tap, and cistern: £433.95*
- *WC: £149*
- *Basin: £562.91*
- *Bathroom tiles: £312.25*
- *Carpet: £499.80*
- *Wardrobe: £140*
- *Bathroom and bedroom rotten floor: £9,408*
- *Total: £20,287.51*

Whereas AXA considers reasonable costs to be:

- *Bathroom and bedroom repairs (as per its scope, and net of VAT): £5,340*
- *Carpet: £533.95*
- *Wardrobe: £140*
- *Total: £6,013.95*

I'll address those costs in turn.

Ms S's policy provides trace and access cover. The policy limit is £7,500 for tracing and accessing the leak, and £250 for repairing the leak.

Ms S has provided a quote from her plumber, for £2,220. The quote clearly involves works

beyond tracing, accessing, and repairing the leak – such as returning to site to refit once building repairs had been completed. However, the tracing and access clearly falls within the £7,500 policy limit, and I consider it reasonable to accept that repairing the burst pipe also falls within the £250 policy limit.

In terms of the replacement shower and sanitaryware – shower, tray, tap, cistern, WC and basin – I'm not persuaded these items needed to be replaced as a result of the leak. On balance, I consider it more likely these items could have been reused. I can understand why Ms S may have wanted new items given she was redoing her bathroom, but AXA is only liable for items and materials that were damaged because of the leak. I note Ms S has explained her plumber said the seals would be damaged when removing the items, but even if I were to accept that was true, I'm not persuaded the items themselves would have needed replacing.

In terms of the carpet, AXA has offered more than the costs Ms S is claiming for and it's agreed to cover the wardrobe.

So, that leaves the bathroom and bedroom repairs. In total, Ms S is seeking £2,220 + £6,561.60 + £9,408 = £18,189.60. However, AXA points towards its scope of £5,340.

Firstly, it's unclear why AXA has deducted VAT from its scope. Both the building and plumbing quotes include VAT and a VAT number. So, subject to Ms S providing evidence to AXA of the sums paid (at this time, we've only seen quotes) and subject to AXA verifying the VAT numbers, at the least, AXA should be basing its settlement on its scope inclusive of VAT = £6,408.25. There is, of course, still a considerable difference between £18,189.60 and £6,408.25.

I can't see that AXA has allowed for tracing, accessing, and repairing the leak. But that would only likely lead to a relatively small uplift in its scope. The other key difference appears to be that AXA has allowed for six joists to be replaced in the bathroom and the joists in the bedroom to be treated – whereas, Ms S had nine joists replaced across the two rooms. But again, I'm not persuaded that would account for the significant difference in costings.

So, on the face of it, AXA's scope and Ms S's quotes broadly cover the same works, albeit there are some differences which would otherwise increase AXA's scope. Therefore, I can only reasonably conclude that the issue here is that AXA considers Ms S's quotes to be unreasonable – which is reflected by the loss adjuster's comments in his preliminary report.

However, AXA hasn't explained why Ms S's repair quotes are unreasonable, and nor has it shown that it was unreasonable for Ms S to have gone ahead based on those costs or that AXA (or its loss adjuster) told her not to do so (or made her aware of the implications of doing so).

Whilst I understand AXA's concerns on this claim given the maintenance issues, the pre-visit strip out works, and the apparent gradual nature of the damage; and whilst I accept AXA has sought to act fairly by offering 75%, overall, in the circumstances presented, I'm not persuaded it can fairly use its scoped costs as the starting figure.

Therefore, I'm currently intending to uphold Ms S complaint in part and direct AXA to settle the claim as follows:

- Bathroom and bedroom repairs: £2,220 + £6,561.60 + £9,408 = £18,189.60
- Bathroom tiles: £312.25
- Carpet: £499.80

- Wardrobe: £140
- Total: £19,141.65 x 75% = £14,356.24

Ms S's excess would be deductible from that figure, and the settlement would be subject to her providing proof of payment to AXA.

AXA will also need to add 8% simple interest per annum to any part of that claim settlement not yet paid, from the date Ms S paid the relevant invoices to the date the complaint is settled.

Is the £250 compensation fair?

Making an insurance claim inevitably involves an element of inconvenience for the policyholder. However, AXA didn't always handle this claim as well as it ought to have.

AXA has offered £250 for the distress and inconvenience caused to Ms S for its handling of her claim. It said it could have handled the claim better and Ms S did experience delays. I've listened to the call recordings in July 2023 and September 2023. Ms S was clearly frustrated and upset about the lack of updates and progress of her claim. And when she made a complaint to AXA, this wasn't acknowledged.

It also follows that further upset and inconvenience has been caused to Ms S by the low claim settlement offered to her (albeit, as I noted above, I accept AXA sought to act fairly in this regard).

That said, overall, I'm satisfied AXA's £250 offer is fair and reasonable compensation for the impact of its errors, and in view of the wider circumstances during this claim.

My provisional decision

For the reasons I've set out above, I intend to uphold this complaint in part.

My provisional decision is AXA Insurance UK Plc should:

- *Settle the claim for £14,356.24 (less the applicable claim excess), subject to Ms S providing proof of payment to AXA;*
- *Add 8% simple interest* per annum to any part of that claim settlement not yet paid, from the date Ms S paid the relevant invoices to the date the complaint is settled; and*
- *Pay Ms S £250 compensation, if not yet paid.*

I now invite both parties to give me any additional information they would like me to consider before 27 September 2024.

** If AXA Insurance UK Plc considers that it's required by HM Revenue & Customs to deduct income tax from any interest paid, it should tell Ms S how much it's taken off. It should also give her a certificate showing the amount deducted, if requested, so she can reclaim it from HM Revenue & Customs if appropriate.*

Both parties responded to my provisional decision.

Ms S accepted my provisional decision.

AXA provided a revised scope of works which now factors in the carpet and wardrobe which were approved but weren't included in the scope itself. Additional items have also been added to the scope of works that weren't in the previous one provided by AXA. And the totals now have an amount excluding VAT and an amount including VAT.

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 uphold Ms S's complaint in part as set out in my provisional decision. I'll explain why.

AXA says it is aware that the settlement will be 75% rather than 50%.

AXA has provided a revised scope of works to incorporate an addition of the following:

- Plasterboard repair to bathroom wall: £280.72
- Internal move of bedroom contents: £158.34
- Replacement shower tray: £150, including VAT
- Replacement shower unit: £190, including VAT

AXA says the revised scope also now factors in the carpet and wardrobe which were approved previously but for whatever reason not included in the scope itself.

So, AXA considers the total scope of works (before deduction of the excess) and therefore reasonable costs for repairs to the bathroom and bedroom to be as follows:

- £6,624.23 excluding VAT: or
- £7,949.08 including VAT

I can see the bathroom tiles have been included in the scope of works – of which the cost to Ms S was £312.25. So, this is also incorporated in the overall amount of £7,949.08.

AXA didn't respond to my points and comments raised regarding the floor joists. It also hasn't explained why Ms S's repair quotes were considered to be unreasonable, and nor has it shown that it was unreasonable for Ms S to have gone ahead based on those costs or that AXA (or its loss adjuster) told her not to do so (or made her aware of the implications of doing so). As such, I see no reason to depart from my findings in my provisional decision on these points. So, the amounts of £2,220 and £9,408 will be included in the total required to settle the complaint.

Despite opportunities being given to AXA to provide clarification on the amounts, I'm not entirely clear how AXA has reached its final total amount of £7,949.08 as having looked at the revised scope of works provided to me, there is still some confusion in the line of entries.

However, in order to reach a fair resolution on Ms S's complaint, in my provisional decision, I reached a broadly similar total amount for the repairs to the bathroom and bedroom to that now proposed by AXA. The final amount I reached was £19,141.65 and AXA's total is now £19,577.08, including the £2,220 for plumbing repairs and £9,408 for the rotten floor repairs. And Ms S's own total cost was £20,287.51.

As such, taking everything into account, I'm satisfied that 75% of the total amount of £19,577.08 is fair and reasonable in the circumstances of this complaint.

I direct AXA to settle the amount as follows:

- Bathroom and bedroom repairs: £2,220 + £7,949.08 + £9,408 = £19,577.08
- Total: £19,577.08 x 75% = £14,682.81

Ms S's excess would be deductible from that figure, and the settlement would be subject to her providing proof of payment to AXA.

AXA will also need to add 8% simple interest per annum to any part of that claim settlement not yet paid, from the date Ms S paid the relevant invoices to the date the complaint is settled.

Neither party has responded to my comments on the compensation of £250 that's been recommended. I therefore think £250 is fair and reasonable compensation for what happened in the circumstances here.

Putting things right

I require AXA Insurance UK Plc to put things right by:

- Settling the claim for £14,682.81 (less the applicable claim excess), subject to Ms S providing proof of payment to AXA;
- Adding 8% simple interest* per annum to any part of that claim settlement not yet paid, from the date Ms S paid the relevant invoices to the date the complaint is settled; and
- Paying Ms S £250 compensation, if not yet paid.

It must do this within 28 days of the date on which we tell it Ms S accepts my final decision. If it takes longer, AXA must give Ms S a meaningful update setting out the timeframe when it will settle the claim.

* If AXA Insurance UK Plc considers that it's required by HM Revenue & Customs to deduct income tax from any interest paid, it should tell Ms S how much it's taken off. It should also give her a certificate showing the amount deducted, if requested, so she can reclaim it from HM Revenue & Customs if appropriate.

My final decision

For the reasons I've set out above, I partly uphold Ms S's complaint about AXA Insurance UK Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms S to accept or reject my decision before 28 October 2024.

Nimisha Radia
Ombudsman