

The complaint

Mr R complains about how AXA Insurance UK Plc ('AXA') handled a claim he made under a home insurance policy, for a property he let out on a short term basis.

Much of Mr R's dissatisfaction relates to the actions of AXA's appointed agents carrying out repairs. As AXA accept they are responsible for the actions of their appointed agents, any reference to AXA in my decision should be interpreted as also covering the actions of their agents.

What happened

The background to this complaint is well known to Mr R and AXA. In my decision, I'll focus mainly on giving the reasons for reaching the outcome that I have.

Mr R had a water leak at his holiday let property. Sometime afterwards, he made a claim under a home insurance policy - for damage caused by the leak. The claim was accepted by AXA. Mr R says he blocked out the availability of his property to allow works to take place.

Drying works completed by early March 2024 and a drying certificate was issued on 11 March 2024. A scope of works was presented on 21 March 2024. Mr R became increasingly dissatisfied with the length of time works were taking and the resulting financial impact (primarily loss of income and ongoing costs). He raised a complaint with AXA. They partially upheld this complaint and awarded £175 for the service (primarily poor communication) provided they provided. Mr R remained unhappy and referred his complaint to our Service for an independent review.

Our Investigator recommended that the complaint be partially upheld and as AXA didn't accept the recommendations, the complaint was then referred to me for a decision. I recently sent both parties a copy of my provisional, intended findings and as the deadline for responses has now passed, I've considered the complaint for a final 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.

Our Service is an alternative, informal dispute resolution service. Although I may not address every point raised as part of this complaint - I have considered them. This isn't intended as a discourtesy to either party – it simply reflects the informal nature of our Service.

Both parties have had the opportunity to respond to my provisional decision. Only Mr R responded – to accept the proposed findings. As no further evidence has been presented before the deadline set, that would materially change the outcome I'd intended to reach - I find no fair or reasonable reason to deviate from my intended findings.

The scope of my decision

The final response letter Mr R received was dated 30 May 2024. This addressed delays and

the service received up until that point.

Generally, our Service would consider any complaint up until that date. However, in my decision I'll consider the handling of the claim and service provided by AXA up until the reinstatement works were completed in early July 2024 because:

- 1- the issues afterwards are a direct continuation of the subject matter addressed in that final response; and
- 2- the complaint referred to our Service considered the delays and service up until the works were completed; and
- 3- AXA have already had an opportunity to respond to our Investigator's assessment (which dealt with the further impact beyond the final response letter)

I note AXA's point that Mr R would have needed to have taken out a different level of cover with a specialist insurer had he wanted the entire period where the works were ongoing to be covered. In any case, I'm not considering the sale of this policy and I note it makes allowances for let out properties, whether they be short term or long term and is akin to a commercial insurance policy.

My key findings

I've reviewed the time line of events here after this claim was made. In my opinion, AXA have caused unreasonable and avoidable delays to reinstatement taking place and Mr R being indemnified under the policy. For example - after drying completed and a scope for works was carried out, weeks passed without the claim moving meaningfully forward.

I've also noted that an internal difference of opinions about flooring being included in the scope of works took up a disproportionate amount of time that added to avoidable claim delays here. Ultimately, it was confirmed by AXA that flooring had been removed to allow drying to take place.

The lag between the drying being completed (early March 2024), AXA granting approval for the works around 5 June 2024 and works commencing at the end of June was also disproportionate.

Therefore, I find that there were avoidable service failings that caused avoidable delays to the progression of this claim.

Has Mr R lost out as a result of AXA's failings?

On balance, it was reasonable of Mr R to block out booking availability from the expected start date of drying works – as he couldn't accommodate paying guests. Had he accepted bookings, he'd have had to either cancel them or source alternative accommodation for the guests. In a letter to AXA dated 30 April 2024, he said:

"Once we had the start date for the works on the property we blocked all bookings for the property for a couple of months. As we receive bookings in the days/weeks before people stay it doesn't cause issues for bookings once the works are complete as we will just open up the bookings and the property will be occupied again."

"The issue is the delays in the works as we closed on 19th Feb and the drying out completed on 6th March. For the last 6+ weeks nothing has happened and we have had no income for the whole period."

On balance, I find that as a result of unreasonable and avoidable delays to repair works being completed, AXA have deprived Mr R of the opportunity to generate income from his property.

When responding to this claim, AXA should have adhered to ICOBS:

<https://www.handbook.fca.org.uk/handbook/ICOBS/8.pdf>

“An insurer must:

(1) handle claims promptly and fairly;

(2) provide reasonable guidance to help a policyholder make a claim and appropriate information on its progress;

(3) not unreasonably reject a claim (including by terminating or avoiding a policy);

and

(4) settle claims promptly once settlement terms are agreed.”

I find that AXA have breached multiple parts of ICOBS 8.1.1 and Mr R has suffered a consequential loss as a result.

Having considered the nature and location of Mr R's property alongside the income generated by the property (during a comparable period across multiple years), I'm persuaded it's more likely than not that had repair works been completed in a timely manner - Mr R would have stood to benefit financially.

Putting things right - Mr R's loss as a result of AXA's actions

Having referred to the policy terms, I agree with AXA that this policy is only intended to cover loss of rental income where a contractually confirmed rental income, or contractually confirmed short term letting was in place:

*“Loss of Rent: If a tenant can't live in the Home You let due to an Insured Loss, We will pay loss of Rent You would have received up to a maximum of £30,000 per claim on any contractually confirmed rental income or **contractually confirmed short term lettings.**”* [bold added for emphasis by Ombudsman]

In Mr R's case, although I consider his actions (removing his property from booking availability) reasonable, he hasn't shown that he had bookings in place throughout the time period in question.

For balance, I'm not persuaded that this means AXA should compensate Mr R from the planned start date of the works (19 February 2024). I say this because drying works would always have been required to take place. Similarly, when drying works were completed, there was always going to be a period of time when the property wouldn't be habitable for paying guests due to the repair works taking place. Mr R isn't claiming a loss for the time period when works were being carried out.

What's unacceptable is the repair works avoidably took longer than was reasonable – even allowing for minor delays. Based on the evidence I've seen, I find a reasonable time frame for repair works to have been completed was likely around four weeks after drying completed. I've considered whether it would be fair and reasonable to factor in these four

weeks and deduct from the loss period, but I don't intend to.

I say this because Mr R will have suffered a financial loss during the period when the works did take place (from late June 2024) and I'm not intending to direct AXA to cover that loss, as per the policy terms (referenced above). This means, for the time period between drying being completed and works starting (27 June 2024), AXA will need to reimburse Mr R for his loss of income.

As explained above, under our Service's powers granted to us under DISP, I'm considering this complaint on a fair and reasonable basis. This means I find that AXA need to compensate Mr R – but not under the contract of insurance.

Mr R has evidenced that his loss of income averaged around £60.45 per day. There is no way of knowing if he would've achieved a booking for all the days he has said, but taken at face value, historical records support that his loss would have been around this amount. This means the consequential loss period covers over 100 days and totals £6831.37. However, in a slight departure from our Investigator's recommended outcome, I direct AXA to add 8% simple interest per annum to the income Mr R likely would have received during the delay period. This is to be calculated from the end of March, April, May and then 26 June 2024.

My logic is any direction I give has to be workable for a business. There's no safe way to say when Mr R would have received the income he's lost out on, due to the nature of his property and the various booking platforms he used to advertise it. For example, a guest could have booked out the property from 1 April 2024 – 30 April 2024, or he could have had 15 guests each staying for two nights each. My understanding is generally Mr R would not receive payment until his guests had checked in. I find the simplest and fairest method is to calculate the interest at the end of each month, until the date settlement is made to him.

I acknowledge AXA offered Mr R £175 for the poor service provided. When taken alongside my intended findings and the action AXA will need to take, I find this to be broadly fair and reasonable. Instead of AXA being the proactive party in managing the claim process, it was Mr R who was the proactive party – regularly chasing AXA for updates to drive the claim forward.

Putting things right

I direct AXA Insurance UK Plc to compensate Mr R as set out below:

- Mr R has evidenced his likely consequential loss period covers over 100 days and totals £6831.37. I direct AXA to add 8% simple interest per annum to the income Mr R likely would have received during this delay period. This is to be calculated from the end of March, April, May and then 26 June 2024 until the date that settlement is paid to Mr R.
- Pay Mr R £175 compensation (if they've not already done so) in recognition of the impact of their actions.

My final decision

My final decision is that I uphold this complaint and direct AXA Insurance UK Plc to follow my direction, as set out under the heading 'Putting things right'.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 7 January 2025.

Daniel O'Shea
Ombudsman