

The complaint

Mr and Mrs A complain about the settlement proposed by AXA Insurance UK Plc (“AXA”) following a claim they made under their home insurance policy.

Any reference to AXA in this decision includes its appointed agents and representatives.

What happened

Mr and Mrs A bought their building insurance policy online in August 2020. In May 2023, they contacted their insurer, AXA, about drainage problems from their property to their septic tank. They said it was becoming necessary to have their tank emptied more frequently to avoid issues with the toilets, baths and sinks at their property.

AXA sent its contractors to inspect the tank and pipework. They found that the roots of a willow tree had damaged the drainage leading into the soakaway system.

As part of the investigation, AXA dug up sections of lawn and advised Mr and Mrs A that due to changes in drainage laws, a new waste system would need to be installed at a cost of £25,000.

Subsequently, AXA told Mr and Mrs A that the problem was in fact to do with the soakaway and not just the pipework, but that as this was classed as an “*outbuilding*” in the policy, the maximum level of cover for this was £7,500. Mr and Mrs A didn’t agree. They told AXA that the soakaway wasn’t causing the problem – and that the issue was the drainage pipes which were part of their main residence. AXA didn’t change its stance, so Mr and Mrs A made a complaint.

In its response to their complaint, AXA said that when Mr and Mrs A bought their policy, they’d been presented with questions asking about the rebuild cost of their property and their outbuildings. It said they’d accepted a rebuild cost for their outbuildings of £7,500 – and that the claim had been made due to the tree roots crushing the soakaway pipes. It said that based on this, the claim was subject to a proportionate settlement as Mr and Mrs A’s outbuildings were underinsured. Mr and Mrs A didn’t accept AXA’s response. So they referred their complaint to this service.

Our Investigator considered the complaint, but didn’t think it should be upheld. He said the evidence demonstrated that the problem was with the waste system and not the associated pipework, and so the outbuildings cover limit was applicable. Because Mr and Mrs A didn’t agree with our Investigator, the complaint has now come to me to decide.

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 this is an informal service, I’m not going to respond here to every point raised or comment on every piece of evidence Mr and Mrs A and AXA have provided. Instead, I’ve

focused on those I consider to be key or central to the issue. But I would like to reassure both parties that I have considered everything submitted. And having done so, I'm not upholding this complaint. I'll explain why.

I've checked Mr and Mrs A's policy carefully, to determine what's covered and how the claim should have been categorised given the evidence available. And I can see that the policy provides cover to protect the home and any outbuildings against "*Insured Losses*", which are all listed in Section 1 of the policy booklet. The policy schedule also sets out clearly the various sums insured, or limits to cover.

Insured Losses are defined as an "*event or series of events that cause loss or damage*" and which AXA has agreed to cover. The evidence shows that the damage was caused by tree root ingress to the soakaway, which is one of the Insured Losses listed in the policy. The Preliminary Report dated June 2023 outlines the following:

"Initial investigations at site by our contractors found a non-functioning soakaway and what appeared to be a damaged septic tank due to tree roots from an adjacent/large willow tree. Further investigations were carried out to empty the septic tank and undertake percolation tests of the ground. Our contractors have concluded the soakaway has failed from tree root ingress. It was not possible to inspect the septic tank due to its type, but it seems to be operating. The only option however, is to re-site it with a new sewage treatment plant and pump this 36m to a new drainage field at the front of the property, as there is no other obvious cost effective repair method."

The technical summary also confirms that there would be a valid claim for tree root ingress to the soakaway system. So I've considered whether such a claim would fall under the buildings sum insured or the outbuildings sum insured. And I think it's clear from the policy definitions that damage to the soakaway would be covered under the outbuildings sum insured, because the definition of "*Outbuilding(s)*" is:

"Fixed structures or buildings detached from the Home located within the Boundary that You are legally responsible for."

Outbuildings include but are not limited to:

- *detached garages, sheds, boundary or garden walls, fences, tennis courts, swimming pools, external car ports, driveways, patios, artificial lawns, septic tanks, soakaways or sewage treatment centres."*

Whilst Mr and Mrs A have said that the soakaway was not the cause of the issue, and that the problems were caused by drainage pipes which are part of the main residence, I don't agree that this means the claim should be considered under the buildings sum insured. This is because to rectify the issue an entirely new waste system was recommended – and not simply repair work to damaged pipes. So this persuades me that it's the outbuildings cover limit that's relevant here, and which AXA has correctly applied.

I've also considered whether AXA limiting cover for outbuildings to £7,500 is fair. And I think it is. AXA has provided evidence to show that when Mr and Mrs A took out their policy in 2020, they were asked during the online sales process to provide the rebuild cost for the property. Underneath this question was a separate question asking if £7,500 worth of cover was sufficient for their outbuildings. Next to that there was a question mark, which, if selected, would reveal the following information:

"Your policy automatically includes £7,500 cover for rebuilding or repairing outbuildings. If you need any more than that please enter the total amount of cover

you require i.e., if you need £10,000 cover for outbuildings please enter 10,000 in the box (not 2,500)."

So I think AXA gave Mr and Mrs A the opportunity to give a higher value for the rebuild cost of their outbuildings. The revealed section of the website then went on to say that outbuildings included *"detached garages, sheds, boundary or garden walls, fences, tennis courts, swimming pools, external car ports, driveways, patios, artificial lawns, septic tanks, soakaways, or sewage treatment centres."*

AXA also emailed Mr and Mrs A explaining how they could view the full terms and conditions of their policy. So I'm satisfied based on everything I've seen regarding the initial sale of the policy, that AXA gave the relevant information to Mr and Mrs A before they took it out and before they agreed to a rebuild value for their outbuildings. And that it gave Mr and Mrs A the opportunity to review this information and make changes if they felt these were needed.

I've also looked at how the renewal of the policy in 2022 was handled, at the start of the year of cover in which the claim was made. And I can see that the documents that were sent to Mr and Mrs A in 2022 confirmed the £7,500 cover limit for outbuildings.

So overall, I don't consider AXA has acted unfairly or unreasonably by dealing with the claim as an outbuildings claim rather than a claim for the main residence, because it's clear from the policy that soakaways fall under outbuildings with a separate limit of cover. It follows therefore, that I also don't consider the application of the £7,500 cover limit for outbuildings to be unfair or unreasonable in the circumstances of this complaint.

Mr and Mrs A have said that the decision in their case was made without a proper inspection and have questioned why video or photo evidence was not obtained. Whilst I understand their concerns, I've read the expert commentary which indicates that the claim should be treated as one for the waste management system as a whole, which includes the soakaway. And I've not seen any contradicting expert evidence which would persuade me otherwise. Mr and Mrs A have asked about the point at which drainage becomes a soakaway. Whilst I can't provide a general answer because my role is to focus on the specific merits of this complaint, I can tell Mr and Mrs A that the relevant factor here is that the repairs required in their case are not isolated to the pipes alone and a new waste management system is needed. So I'm satisfied this falls under the definition of repairs to an outbuilding.

If Mr and Mrs A can obtain evidence from an independent expert which would suggest that the issue should be dealt with under the total buildings sum insured and not the outbuildings limit, then they should submit that evidence to AXA in the first instance for its consideration.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs A and Mr A to accept or reject my decision before 15 April 2025.

Ifrah Malik
Ombudsman