

The complaint

Mrs W and Mr W are unhappy with the service provided by AXA Insurance UK Plc after making a claim following an escape of oil that damaged their home.

Mrs W and Mr W are both parties to this complaint. For ease of reference I have referred to Mr W throughout this final decision.

AXA is the underwriter of this policy. Part of this complaint concerns the actions of third parties instructed on the claim. AXA has accepted that it is accountable for the actions of third parties instructed by it. In my decision, any reference to AXA includes the actions of any third party instructed by AXA during the course of Mr W's claim.

What happened

Mr W took out home insurance with AXA. As part of this application Mr W was asked about the cost of rebuilding his home (buildings) and outbuildings. Mr W recorded this amount as £300,000 and £7,500 respectively. In December 2022 Mr W's home was caused damage following an escape of oil, resulting in Mr W making a claim on his policy.

As part of its investigation into Mr W's claim AXA found that Mr W had underinsured the cost of rebuilding his home and outbuildings. AXA's surveyor determined this cost to be £589,548.00 and £50,000 respectively.

As part of its enquiries AXA also asked for more information about any previous flooding impacting Mr W's home. Mr W said that the cellar has been '*flooded two or three times a year*'. Mr W later explained that '*...the cellar normally drains without any problem but if there is severe rainfall, about two or three times a year, there is a slow, irregular seepage of water into the cellar which will activate the automatic pump controlling the water level. As the water table is below the level of the house itself, the house can never flood, and even if there was some extraordinary unheard of downfall of water it would flow straight down the road to the marsh below us...*'

In March 2023 Mr W complained about the delay in dealing with his claim. In April, AXA responded to Mr W's complaint accepting the poor service, and impact on Mr W. AXA paid Mr W £250 in recognition of the inconvenience caused to Mr W.

In May AXA informed Mr W that it would proportionately settle the claim. Mr W told that this would be subject to the following conditions:

- ☐ *Your claim will be reduced to 51% of its value due to the underinsurance we have identified.*
- ☐ *This agreed value will then be reduced to 81% of its value, due to the non-disclosure of the previous flooding.*
- ☐ *Your excess of £350.00 will then apply.*

Around the same time, a mid-term adjustment was applied to Mr W's policy resulting in flood cover being removed, and the sum assured for rebuilding Mr W's home and outbuildings being increased to £589,548.00 and £50,000 respectively.

In July Mr W complained about the offer to settle his claim. In August 2023 AXA issued a further final response letter confirming the proportional settlement offer, but also accepting the lack of communication with Mr W following his emails. Mr W was paid a further £200 compensation.

Mr W was unhappy with this amount, and complained to AXA about the proportionate settlement, and the way the claim value had been calculated. During our investigation, AXA confirmed that following a change in its position, only the proportionate average of 81% would apply. AXA said had Mr W disclosed the sum assured of £589,548.00 and £50,000 respectively for his home and outbuilding, AXA would've charged more for the premium. AXA provided evidence showing that based on the amount Mr W had insured for, he'd only paid 81% of the risk premium that he should've paid, and so AXA would settle the claim on this basis.

The Investigator said AXA needed to do more to put things right. The Investigator agreed with AXA's approach to proportionately settle the claim, and confirmed this should be done in line with this Service's approach to pay for the percentage of the claim that reflected the risk premium paid by Mr W. The Investigator also said AXA had failed to clearly communicate with Mr W about its offer, and it should pay Mr W an additional £250 compensation for the upset caused by its poor communication.

AXA accepted the Investigator's view. Mr W didn't, saying his premium and sum assured have increased following a recent renewal. As the complaint couldn't be resolved, it has been passed to me for 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.

I'd like to reassure the parties that although I've only summarised the background to this complaint, so not everything that has happened or been argued is set out above, I've read and considered everything that has been provided. I've focused my comments on what I think is relevant. If I haven't commented on any specific point, it's because I don't believe it has affected what I think is the right outcome.

I thought it would be helpful to provide some clarity about the Financial Ombudsman Service's role and the scope of the complaint that I'm deciding. Our role is to resolve disputes between complainants and financial businesses, to help both parties move on. It isn't our role to handle a claim or to deal with matters as they arise. In this decision, I will be considering matters complained of from December 2022 until AXA's final response of 29 August 2023.

Underinsurance for buildings and outbuildings

When validating the claim, AXA established Mr W was underinsured. The Investigator found that AXA made Mr W reasonably aware that the sum insured needed to represent the full rebuild cost of his home and outbuildings. I've reviewed the evidence showing the online sales journey, and I agree with the Investigator's findings and outcome on the question of underinsurance. Mr W should've been aware that the declared sum would have needed to

represent a sufficient amount to do this. As Mr W failed to do this, AXA's decision in saying Mr W had underinsured his property was fair.

The next question I've considered is the impact on AXA as a result of Mr B's response about the rebuild sum. As part of our investigation AXA was asked to provide evidence of what premium it would have charged at the time if it had known the sum insured for home and outbuildings was greater.

AXA has provided evidence to confirm the impact of Mr B's underinsurance on the premium he would've had to pay had the correct rebuild cost for his home and outbuildings been provided. The impact of Mr B's underinsurance to AXA is that it received less premium than it would have if the sums insured had been accurate. AXA has recalculated what the policy premium would've been with the rebuild cost of £589,548.00 and £50,000 respectively for his home and outbuildings. This evidence shows Mr B has only paid 81% of the risk premium he should otherwise have done.

Given Mr B has only paid 81% of the risk premium he should've, this is the impact to AXA as a result of the underinsurance. So it's fair and reasonable for AXA to proportionately settle the claim at 81% representing the proportion of the premium paid in line with our approach to complaints about underinsurance.

Communication and delays

Mr W's claim following an escape of oil was reported to AXA in December 2022. AXA instructed another company to complete the claims handling aspect of Mr W's claim. I have seen that throughout the claim Mr W was sent poor communications about the amount that would be covered following his claim, and what this would mean for Mr W's claim.

I think it would've come as a shock and disappointment to Mr W to learn that his claim would be covered but for the level of cover to have remained in dispute until as late as October 2023. Even when a decision was made to settle the claim proportionately, I can't see that the revised decision was communicated to Mr W until this Service's involvement. I have considered the impact of this poor service when determining what fair and reasonable compensation should look like.

I accept that claims of this nature, given the complexity and sums involved, can take time to verify and ensure compliance with the policy terms. I also accept that during the months where Mr W was raising concerns with AXA, AXA did issue two final response letters which set out the policy terms that were under review for the purposes of determining an outcome for Mr W's claim. I also note that Mr W requested no further contact from AXA after his complaint was referred to this Service. Because of this Mr W's claim itself remains open and awaiting instruction from Mr W in respect of getting repair quotes, and the repairs booked in.

In its response to Mr W's complaint in August 2023 AXA advised that it could support Mr W in obtaining quotes from oil remediation companies so that repairs could be completed. Mr W should let AXA know if he still wants to go ahead with repairs.

Having considered our award bands alongside what's happened on this claim, I'm minded to ask AXA to pay Mr W £250 in compensation (in addition to the total compensation of £450 already paid when the final response letters were issued). This amount reflects the delays on the claim but also that the outcome of the claim remains as set out by AXA in October 2023 (albeit not communicated to Mr W until this Service's involvement).

Premium increase

I understand that in response to the Investigator's findings, Mr W has raised concerns about the most recent renewal sent by AXA. Mr W says the premium has substantially increased, and he remains concerned by the sum assured recorded for home and outbuildings.

We limit the scope of our decision making to issues which a business has had the opportunity to answer first. This is in line with our rules. If Mr W has concerns with more recent events, he would need to raise these concerns directly with the business. This would be the subject of a new complaint.

Putting things right

I am minded to ask AXA Insurance UK Plc to:

1. Proportionately settle the claim for escape of oil in line with the terms and condition of the policy; and
2. Pay £250 for distress and inconvenience.

My final decision

For the reasons given above, AXA Insurance UK Plc is directed to follow my directions for putting things right as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W and Mrs W to accept or reject my decision before 31 December 2024.

Neeta Karelia
Ombudsman