

The complaint

Mrs M complains AXA Insurance UK Plc unfairly declined an accidental damage claim under a buildings insurance policy.

What happened

Mrs M held buildings insurance which was underwritten by AXA.

Mrs M had building works done in 2023. These included a new patio, amongst other works. Mrs M said shortly after completion, she experienced issues with drainage, blockages, and foul water escaped onto the patio. She appointed a third-party to provide a report, quote for repairs, and she raised an accidental damage claim to AXA.

AXA appointed an agent to validate the claim. AXA said the underground pipe was pitch fibre, and a CCTV survey showed the pipe was in poor condition as the result of an inherent defect. AXA therefore declined to assist Mrs M with this claim.

Mrs M didn't agree. She appointed contractors to report on the damage and undertake the repairs. Mrs M provided AXA with this report to support her claim, but AXA didn't change its stance, so Mrs M complained. AXA responded, it didn't change the claim outcome, but paid Mrs M £125 compensation for some service issues.

Mrs M asked this Service for an impartial review. She has said, in brief, AXA treated her unfairly, dismissed her evidence, and this claim impacted her financially and her health.

The Investigator thought the complaint should be upheld as she wasn't satisfied AXA declined the claim fairly. She recommended it settled the claim, included interest, and pay Mrs M £350 compensation in total. Mrs M agreed, but AXA didn't, so I must decide this complaint.

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 recognise I've summarised this complaint in less detail than it's been presented. Several points have been raised in relation to this matter – I've not addressed each one individually. Instead, I've focused on what I think the key points are. I mean no discourtesy by this to either party – it simply reflects the informal nature of this Service.

The policy says:

“Cover 21 – Pipes and cables

What is covered

Accidental damage to cables, drain inspection covers and underground drains, pipes or tanks providing services to or from the **home** and for which you are responsible.”

The policy goes on to say:

“What is not covered

...

2 Loss or damage to pitch fibre drains caused by inherent defects in the design, material, construction, or installation of the pipes and drains.

If it is discovered that the cause is not accidental damage then unless one of the other causes applies there will be no cover.”

The policy doesn't define 'accidental damage', so I've considered the general meaning of this term, which is damage that occurs suddenly, unexpectedly, and not done on purpose.

AXA declined this claim referring to the above policy terms. It wasn't satisfied damage to the underground pipe was the result of accidental damage. Rather, it said the pitch fibre pipe damage was the result of deterioration overtime, and the policy excludes loss or damage due to the failure of pitch fibre drains.

I don't find, on balance, AXA reached a fair and reasonable conclusion on this claim. I say this for the following key reasons:

- I find Mrs M has provided plausible and consistent testimony regarding the probable cause of damage – supported by evidence. She said, in brief, no issues with the pipe were noted until after the 2023 building works took place above the pipe. She has said the pipe was damaged accidentally during these works, and I find the comments from the first engineer within the 12 February 2024 report supports her view. I say this because the engineer set out it was *“likely that the pipe has deformed as a result of a whacker plate being used above this very shallow pipework.”* The engineer also said while they were unable to say with 100% certainty as there was no CCTV carried out prior to the building works, this was a probable cause.
- The first engineer was only able to CCTV the pipe up to 1.2M. This was due to the pipe being severely deformed and restricting the line. It follows I find this supports a problem was more likely than not present with the pipe at this section which prevented the engineer from surveying the entire pipe run on 9 February 2024.
- Following this, AXA's agent undertook a CCTV survey. Its agent was able to carry out CCTV beyond the 1.2M point. AXA has said, in brief, this CCTV survey footage shows the pipe to be heavily scarred and deposits can be seen throughout which suggests there has been excessive historical serviceability issues. I've reviewed the footage, and I don't find this demonstrates the pipe was generally in poor condition, had failed as the result of an inherent defect, or that no issues were present on the pipe through roughly 1.2M. AXA's footage is pitch black around 1.2M, and underwater. The remainder of the footage further on from this shows a clearer image of the structure of the pipe which appears to be in a serviceable condition (as set out by Mrs M's second engineer, which I'll come on to).
- Mrs M appointed a second engineer to report on the damage and undertake the works. This report was provided to AXA for further consideration. I've reviewed this report, and I find it to be compelling, persuasive, well-reasoned, and supported by photos. I find this report most persuasive given this report was carried out by someone suitably qualified to excavate the pipe, assess the damage, undertake the repairs, and report on the same.

- The report set out that a controlled opening of the ground was carried out, the pipe was exposed, and a section of the pipe was found to have suffered from a combination of impact and compression damage. The engineer provided photos of the pipe to support the same. The engineer also commented on the remainder of the pipe run saying it was in good condition, which was also supported by photos.
- AXA wasn't satisfied photos taken by the engineer of the pipe after it had been cut out was consistent with the evidence available, given the significance of damage, and the fact its agent was able to get a camera (60mm in diameter) through the 1.2M section. It also said the engineer was able to cut out an undamaged section of pipe without any problems. But I find the contractor provided a reasonable and plausible explanation within their report in relation to the same, when explaining that some fracturing occurred when cutting out the damaged section of the pipe due to the stress in the material.
- It follows I find the first engineer being unable to CCTV the pipe beyond 1.2M supports it's more likely than not there was a problem with the pipe at this section. While AXA's agents were able to carry out CCTV beyond this point, I don't find the CCTV survey footage demonstrates the loss which gave rise to the claim Mrs M reported was the result of a pitch fibre pipe inherent defect. Rather, on balance, I am more persuaded by Mrs M's evidence – that the cause of damage was more likely than not the result of accidental damage, which the policy responds to.

In concluding, I am not satisfied AXA declined Mrs M's accidental damage claim fairly and reasonably. It follows I'll be directing it to settle Mrs M's claim in line with the remaining policy terms and include interest.

I find AXA ought to have handled matters much better, and with a more appropriate level of customer service. Mrs M has explained the difficult time she faced while this claim was running, and the impact on her, her finances, and while recovering with her health. With any claim it's natural for a policyholder to experience distress, inconvenience, and some disruption. AXA has recognised its service failings here caused Mrs M further distress and inconvenience – over and above what's naturally expected with a claim of this nature. All things considered – I find £350 compensation in total to be fair, reasonable, and proportionate. It follows I'll also be directing AXA to pay this to Mrs M.

Putting things right

For the reasons I've given above, AXA must now:

- Settle Mrs M's accidental damage claim in line with the remaining policy terms;
- Include simple interest* at 8% per year on any settlement paid to Mrs M, from the date Mrs M paid for the claim-related repairs, to the date of settlement; and
- Pay Mrs M £350 compensation in total (deducting any amount already paid to her) for the distress and inconvenience caused.

My final decision

I uphold this complaint. I now require AXA Insurance UK Plc to settle this complaint in line with my instructions above.

*If AXA Insurance UK Plc considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mrs M how much it's taken off. It should also give Mrs M a tax

deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 21 April 2025.

Liam Hickey
Ombudsman