

The complaint

Ms K and Mr S complain that AXA Insurance UK Plc (“AXA”) unfairly declined a claim they made for damage to their home.

What happened

In January 2024 Ms K and Mr S claimed under their HomeProtect policy with AXA, when they discovered water was entering the insured property. An investigation was carried out into the cause of the leak and it was found that pigeons were occupying the roof space having entered through loose roof tiles, and this had caused the water ingress.

AXA declined the claim. It said damage caused by vermin was covered under the policy, but that the policy definition of vermin didn’t include pigeons. Ms K and Mr S didn’t accept this so they complained and asked AXA to reconsider their claim.

AXA did so, but again declined the claim on the basis that Ms K and Mr S’s property had more occupants than had been disclosed. It said the tenancy agreement only had one name on it, and the most recent statement of fact referred to three adults living at the property. However, AXA said there was one adult and five children at the property and that Ms K and Mr S had an obligation to update AXA with any material changes that might affect its assessment of the risk.

Ms K and Mr S didn’t agree with AXA’s decision, so they referred their complaint to this service. Our Investigator considered the complaint, but didn’t think it should be upheld. He said that the policy definition of vermin didn’t include pigeons, and that it wasn’t unreasonable for AXA to have relied on its own policy definition to decline the claim. But he also said the main reason for AXA’s refusal of the claim was the inaccurate information it was given regarding the occupation of the property. And that there was a relevant policy exclusion for wear and tear that AXA had also relied on. Based on the evidence, our Investigator felt AXA hadn’t acted unfairly in declining the claim for the reasons it did.

Ms K and Mr S didn’t accept our Investigator’s opinion. They said the presence of the additional occupants wasn’t known to them and that the definition of vermin in the policy didn’t include an exhaustive list. They asked for an Ombudsman to review their complaint, so the complaint has now come to me for a 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.

As this is an informal service, I’m not going to respond here to every point raised or comment on every piece of evidence Ms K, Mr S and AXA have provided. Instead, I’ve focused on those I consider to be key or central to the issues in dispute. 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.

The insurance industry regulator, the Financial Conduct Authority (FCA), has set out rules and guidance about how insurers should handle claims. These are contained in the 'Insurance: Conduct of Business Sourcebook' (ICOBS). ICOBS 8.1 says an insurer must handle claims promptly and fairly; provide reasonable guidance to help a policyholder make a claim and give appropriate information on its progress; and not unreasonably reject a claim. I've kept this in mind while considering this complaint together with what I consider to be fair and reasonable in all the circumstances.

I've considered each of the reasons AXA has cited to decline the claim, as well as Ms K and Mr S's arguments in relation to those reasons. And I don't agree that the policy definition of vermin doesn't include an exhaustive list. The relevant term in the accidental damage section of the policy says:

"Full Accidental Damage provides a comprehensive level of cover and is designed to protect Your Home or Outbuildings from Accidental Damage caused by You, Your guests or Vermin."

The definitions section of the policy then states that the meaning of vermin in relation to the policy is *"Rats, mice, squirrels, wasps or hornets"*.

Insurance policies aren't designed to cover every eventuality or situation. An insurer will decide which risks it's willing to cover and set these out in the terms and conditions of the policy document. The test then is whether the claim falls under one of the agreed areas of cover within the policy. In this case, I'm satisfied that damage caused by pigeons is not covered in the policy terms and was not intended to be covered, as I do consider the list given in the definition of vermin to be exhaustive. And as a specific definition has been given for the term "vermin" in the policy, the dictionary definition of the term is therefore irrelevant. AXA can decide which risks it wants to cover, so I don't consider AXA to have acted unfairly or unreasonably by acting in line with its own policy definition.

I've also considered AXA's comments about the alleged unauthorised subletting of the property to an adult with five children, as opposed to occupancy by the person named on the tenancy agreement, or three adults as stated on the statement of fact. The policy terms clearly state that policyholders must keep the insurer up to date with any material changes and I consider the occupancy of the property to be material to the risk here. Whilst Ms K and Mr S have said that temporary occupancy by relatives or visitors is a common and foreseeable aspect of tenancy arrangements and does not contravene tenancy obligations or insurance policy requirements unless explicitly restricted, I haven't seen enough evidence to persuade me that the additional occupants were family or friends of the tenant who were merely visiting or temporarily residing at the property. And so I don't consider it unreasonable for the insurer to have expected Ms K and Mr S to make it aware of the correct number of occupants.

Ms K and Mr S have also said that AXA's introduction of a new basis for denial of the claim was unreasonable, when AXA said the damage was caused by long-term weathering and wear and tear, rather than the pigeons' actions. Ms K and Mr S have said there was no evidence of any pre-existing issues regarding the roof or external parts of the property. And that the tiles were dislodged specifically by the pigeons to gain access to the loft.

But having considered all the evidence, I don't agree that there's a lack of evidence of deterioration. Pigeons are not usually strong enough to lift roof tiles unless they are already dislodged. I do however accept that the pigeons' ongoing actions may have dislodged them – and that while pigeons don't ordinarily cause such damage, I think it's possible that their activities could've weakened the roof tiles over time, causing them to become more easily dislodged. But, I still think AXA's decision is fair based on the occupancy issues and the fact

that the defined term vermin does not include pigeons.

Ms K and Mr S have also said the policy was misrepresented and mis-sold to them. A mis-sale complaint is usually considered separately to a complaint about the decline of a claim. I appreciate why Ms K and Mr S feel these issues should be considered together as they're intrinsically linked. But I don't think it would be reasonable to deal with both matters in this decision, as I can't see that a complaint has been made to the relevant business about the sale of the policy – and it wouldn't be fair to include that issue in my consideration of this complaint, when the seller of the policy hasn't had an opportunity to respond to it first. If Ms K and Mr S wish to complain about the mis-sale of the policy, they can do so – and if they remain unhappy once they have received a response to that complaint, then (subject to the usual rules and time limits that apply), we may be able to consider it.

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 Ms K and Mr S to accept or reject my decision before 14 July 2025.

Ifrah Malik
Ombudsman