

## **The complaint**

Mr and Mrs R complains AXA Insurance UK Plc handled their subsidence claim poorly.

AXA's been represented for the claim at points. For simplicity I've generally referred to the representative's actions as being AXA's own.

Mr and Mrs R are both complainants. As Mrs R's been the main correspondent and for ease of reading, I've generally only referred to her.

## **What happened**

In February 2021 Mrs R made a subsidence claim against her AXA home insurance policy. After some back and forth AXA accepted the claim.

There's a lot of detail to the claim history. I'm providing a brief summary here. AXA appointed a claim's handler (H) to manage the claim. AXA concluded tree root influenced clay soil shrinkage to be responsible for the subsidence. Some vegetation was removed. AXA considered the property had stabilised and was ready for repairs. Mrs R didn't agree, believing her own commissioned monitoring to show continued movement.

During the life of the claim Mrs R's made various complaints to AXA about how it and H have handled matters. In June 2024 Mrs R still frustrated with AXA's claims handling, referred her concerns to the Financial Ombudsman Service.

Our Investigator explained to Mrs R that, due to certain complaint points being referred out of time and AXA not providing consent, we aren't able to consider them. She said we could consider complaint points relevant to AXA's March 2024 and April 2024 final response letters and additional concerns Mrs R raised to AXA in June 2024. Within that the Investigator considered AXA's responsibility for delay and poor communications between July 2023 and the date of Mrs R coming to this Service - June 2024.

In her assessment the Investigator explained why she felt AXA should; monitor the property for a further six months or use Ms R's monitoring readings to see if the property is stable, cover the cost of drain repairs as part of this subsidence claim, pay a further £897 as part of a cash settlement for repairs, arrange ongoing subsidence cover and pay an additional £1,500 to compensate for the additional distress and inconvenience its handling of the claim caused.

AXA didn't accept the proposed outcome and neither did Mrs R, so the complaint was passed to me to decide. I considered similar complaint points, and timescales, as the Investigator. For some points neither AXA nor Mrs R objected to the Investigator's assessment. So, for some of these points I considered them to be resolved. As such, when I issued a provisional decision, I didn't address them.

As referenced above, I issued a provisional decision. In it I explained why I intended to require AXA to arrange subsidence cover, on reasonable terms, for a minimum of three years from the date of issue of a final Certificate of Structural Adequacy (COSA) and pay

Mrs R £1,500 compensation. As the provisional decision's reasoning forms part of this final decision, I've copied it in below. I also invited Mrs R and AXA to provide any further comments or evidence they would like me to consider before issuing this final decision.

### ***what I've provisionally 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 or piece of evidence Mrs R 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 that I have considered everything submitted.*

### ***ongoing movement***

*A key concern of Mrs R, and subject of dispute between her and AXA, has been her belief the property was still moving following AXA's mitigation works - the removal of vegetation. In her opinion monitoring, she commissioned, showed continued movement. AXA eventually accepted there to be reason for further assessment. It appointed one of its suppliers to review the situation.*

*I expect AXA to, if the assessment finds continued movement beyond accepted tolerances, undertake mitigation works to ensure an effective and lasting repair can be made. But I'm not going to direct it to undertake any specific works, like underpinning or resin injections. That's something that would be better decided upon following the conclusion of the assessment and by someone who has the required expertise necessary to make such a technical finding.*

*It's not clear if AXA arranged its own monitoring or has continued to rely on Mrs R's. If it's the latter, I'd expect it to continue reimbursing her the costs.*

### ***drains***

*A drainage survey, arranged by AXA, found damage to drains on Mrs R's property. It refused to cover the cost of repair. It considered, for various reasons including that the property had stabilised post vegetation removal, that the drains weren't a cause of subsidence.*

*Events have since moved on. Mrs R has now paid for the drains to be repaired. AXA accepted there is reason to reassess for any ongoing movement. But it still hasn't agreed to cover drain repairs as part of this subsidence claim. It doesn't accept the damaged drains to have been a cause of, or caused by, subsidence. AXA's position is that if they were a cause monitoring would show progressive downward movement. Instead, it points to any movement being cyclical.*

*For me to fairly require AXA to cover the drain repairs, I'd require evidence that they are most likely a cause of, or damaged by, subsidence. Unfortunately for Mrs R, I haven't seen any expert evidence to counter AXA's position. She referred to her surveyor saying drains could be a cause. But I haven't been provided with any comments directly from him, or other expert evidence.*

*H, on behalf of AXA, did request the drains to be repaired before property repairs take place. It doesn't accept this means it has accepted the drains as a cause of subsidence. Instead, it explained it considers it prudent, as leaking drains can cause more issues than just*

*subsidence, to have the damage addressed before property repairs take place. I accept that to be a reasonable position.*

*Neither have I seen any persuasive evidence to demonstrate the damage to the drains was caused by subsidence. The drainage investigation report does consider the cause to be 'ground movement'. AXA considers this refers to general ground movement, rather than specifically subsidence related movement. Again, I don't have any persuasive expert evidence to counter this position.*

*So currently I accept AXA's position that there isn't persuasive evidence of the drain damage being claim related. It's said if there is evidence to show the drains are a contributing factor it will reconsider its position. That's a reasonable position. So I don't currently intend to require AXA to reimburse the cost of the drain repairs.*

#### *subsidence cover*

*Mrs R's raised concern at AXA withdrawing subsidence cover. It's not clear if AXA declined to provide the property with any cover, or just removed subsidence cover. It's also not clear if Mrs R's found alternative provision for the property.*

*I request both parties, in response this provisional decision, provide an explanation and update. I'd like to receive response in this respect within a week of the date of this decision.*

*The Investigator recommended AXA provide ongoing subsidence cover. In response AXA, said it didn't disagree with the Investigator's position. It explained it was seeking an explanation from its underwriter team. So far, its failed to provide an update. In the absence of that further detail, I'm going to set out my intended outcome, based on what is known so far.*

*If AXA has withdrawn subsidence cover, and Mrs R's been unable to find alternative provision, I intend to require AXA to arrange subsidence cover, on reasonable terms, for a minimum period of three years following issue of a final COSA.*

*AXA will be aware of the Association of British Insurer's (ABI) agreement on continuation of cover following a subsidence claim. So I don't intend to explain it in it in detail. But the purpose of the guidance is to ensure insurers continue to cover domestic properties after dealing with a subsidence claim. The guidance says, regardless of the risk of future subsidence damage, it would be good practice for the insurer to work with the policy holder to identify action that might be taken to manage ongoing risks, and hence maintain cover, wherever possible.*

*AXA hasn't explained why it can't maintain cover in the circumstances. I will consider any response it provides. But having considered the relevant guidance, and its position on good practice, I consider it will be fair and reasonable for AXA to provide cover as I've set out above.*

*I've chosen three years, from the date of a final COSA, as that should provide assurance to other insurers that AXA's settlement of the claim has provided for a lasting and effective repair.*

#### *cash settlement*

*AXA cash settled, at Mrs R's request, the repair part of the claim. The settlement was based on a costed scope of works AXA received from one of its suppliers.*

*Mrs R requested damage to chip board flooring be added to the schedule of work for repairs. She provided AXA with a video as evidence of the damage. AXA declined that request, arguing a purchase survey showed the issue predated the subsidence.*

*I haven't been provided with either the video or the survey. So I haven't made a determination on this issue here. However, I will do so if I'm provided with the evidence in response to this provisional decision. As above that should be provided within a week of the date of this decision.*

*The Investigator recommended AXA should include an additional amount of £897 in Mrs R's settlement. That was to reflect a 'management fee' AXA had deducted from the supplier's costed scope of works. AXA hasn't accepted that recommendation. It explained the management fee doesn't form part of the actual cost of repairs, so paying Mrs R that amount wouldn't be appropriate.*

*The policy terms state that where AXA can offer repair through its own supplier, but agrees to pay a cash settlement, the payment will not exceed the amount it would have paid the preferred supplier.*

*It's reasonable that AXA settle based on what it would have paid its supplier for the actual repairs. So I consider its deduction of non-repair costs from the settlement to be fair and reasonable. That means I don't intend to require it to pay Mrs R the additional £897.*

#### compensation

*AXA accepted the Investigator's assessment that it was responsible, in the period considered in this complaint, for around seven months of delay. However, it didn't accept the level of compensation she recommended to be reasonable. It accepted its service had been poor, with several things going wrong during the period being reviewed here. However, it isn't persuaded the level of upset, frustration and inconvenience warrants an award of £1,500.*

*I broadly agree with the Investigator's assessment of the length of delay. As AXA's accepted her assessment, I don't feel it necessary to repeat it here. Instead, I will focus on the compensation award itself. Having considered the detail of what went wrong and the award suggested, I agree £1,500 to be a reasonable level of compensation for AXA to pay. Its mistakes have caused an unnecessary extension to the life of the claim by many months, increasing the frustration and inconvenience experienced by Mrs R. The impact on her has been particularly significant due to the health circumstances of her and her son.*

#### **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.

Mrs R and AXA both provided responses to my provisional decision. Neither objected to my intended findings on various issues - including drains and compensation. I've addressed the comments or additional evidence, where I consider it necessary, below.

#### ongoing movement

Mrs R raised her continued concern at possible ongoing movement - and the possibility it may be caused by unstable banking beside her property. I note her concerns, but I'm not going to decide on that issue here. I've seen a neighbour's tree was identified, in

January 2025, as a cause of ongoing movement and has been removed. AXA said it will now continue to review monitoring results to assess if stability has been achieved following its removal.

I'm satisfied AXA's acting reasonably here. I'd expect it, if the latest monitoring finds continued movement beyond accepted tolerances, to explore possible causes and undertake mitigation works to ensure an effective and lasting repair can be made.

Again, I'm not going to direct it to undertake any specific works, like underpinning or resin injections. That is something better decided upon, now suspected cause of movement has been removed, following the conclusion of further monitoring. Hopefully results will show stability, allowing the claim to move to the repair stage.

#### floor

I've been provided with the requested video of the floor and the pre-purchase home survey as requested. Mrs R considers the relevant area to have been damaged by the subsidence related movement of the property. She would like relevant repairs costs included in the claim settlement. She says any tilt to the flooring wasn't visible pre-subsidence, with it now having a hump, significantly worse than anything evident when she purchased the property.

The video demonstrates a hump in the centre of the flooring. The pre-purchase survey notes 'The floors show very slight signs of unevenness consistent with the historic movement'.

AXA, having reviewed the video and home survey, didn't accept the damage to be claim related, but instead it considered it historic. It referred to the pre-purchase survey having noted distortions in the flooring.

Having considered the evidence, I'm not going to require AXA to include the floor in the settlement for repairs. I accept it's possible the subsidence has exacerbated the historic distortion. But there just isn't enough evidence for me to conclude that's most likely. The video shows bare flooring. The flooring, when inspected for the survey, was covered with carpet or laminate. It's possible the extent of distortion was masked or hidden to an extent by the carpet or laminate.

#### subsidence cover

Mrs R provided evidence of her current home insurance policy - it doesn't include subsidence cover. AXA explained how Mrs R has found herself in that position. I'm not going to repeat its explanation. It's enough to set out that it accepts that shouldn't have happened, it went against ABI guidance and it apologises for the situation.

AXA said it can provide Mrs R with subsidence cover - but it would have to be provided as part of a full buildings insurance policy. I consider that a reasonable position, so don't intend to require it to provide standalone subsidence cover.

However, AXA didn't accept my proposal that it provide cover for a minimum period of three years following issue of a final COSA. It's of the opinion, under the ABI guidance (the guidance), it's only obliged to provide cover until the ongoing claim is concluded. AXA requested I limit my direction accordingly.

I'm not persuaded the guidance is intended to only apply until a subsidence claim is concluded. I accept the guidance doesn't explicitly state that cover should continue to be provided after a claim has concluded. But, neither does it explicitly support AXA's position.

Instead, considering the overall intention and content of the guidance, I'm satisfied it at least implies cover should be provided, wherever possible, post claim.

To illustrate I've provided a few excerpts from the guidance and from the ABI's website. I've added underlining to draw attention to certain wording.

The guidance's introduction sets out the importance of subsidence cover to a functioning housing market. It then states, 'Where subsidence occurs it requires careful monitoring in order to identify the most appropriate intervention...This combined with concerns over the availability of insurance in the future and the potential effect this may have on property value, may result in customer dissatisfaction and criticism of the insurance industry'. After that introduction the guidance suggests an approach that may alleviate such concerns and provide policyholders with reassurance.

The guidance, then, aims to alleviate policyholders concerns about the availability of subsidence cover in the future – with 'the future' seemingly being post the subsidence related 'appropriate intervention'.

The following text is taken from the guidance's 'suggested approach'.

'Where a claim arises, the insurer handling the claim should normally continue to provide subsidence cover on the property after the repair is effected where the repair has been carried out under the insurer's direction, or with their approval. This would reflect the confidence the insurer has in its own claims handling arrangements'.

Here the suggested approach is to continue to provide cover after subsidence repairs take place. The guidance explains that would reflect the confidence the insurer has in its own claims handling arrangements. An insurer removing cover at the closure of the claim, wouldn't be a display of confidence in its own claims handling arrangements.

The ABI website includes a 'Q&A' section. It explains the above approach, in response to a question about obtaining cover, in the future, after having made a subsidence claim.

'If I have claimed for subsidence damage will I still be able to get affordable building insurance in the future?

...ABI member companies are committed to working with policyholders to manage any subsidence risk and maintain cover. Where a claim arises, the insurer handling the claim, in the majority of cases, continues to provide subsidence cover on the property after the repair is completed...'.

Based on the guidance's aim and suggested approach, including the sections set out above and with reference to the ABI's own explanation, I'm satisfied its intention is not limited to provision of cover up to the point a claim is concluded. Instead, it intends to more broadly alleviate concern and provide reassurance about the availability of cover in the future, after a claim.

I note the guidance accepts insurers can't guarantee to maintain cover in all circumstances. AXA hasn't explained why, in the circumstances, it would be unable to maintain cover. Instead, it limited its response to an objection to the period of continued cover I proposed, based solely on its interpretation of the guidance.

So I still intend to require it provide, in line with the guidance as an example of good industry practice, subsidence cover, as part of a full building policy, for a period beyond conclusion of the claim.

In my provisional decision I said I intend that period to be a minimum of three years from the issue of a final COSA. I considered that period should provide assurance to other insurers that AXA's settlement of the claim has provided for a lasting and effective repair. A three-year period will also provide some reassurance to Mrs R, but not place an unreasonable, unlimited obligation on AXA. For these reasons I consider a three-year period of continued cover provides a fair and balanced outcome for both parties.

So having considered AXA's response I'm still going to require AXA to arrange subsidence cover arrange subsidence cover, on reasonable terms, for a minimum of three years from the date of issue of a final COSA.

### **My final decision**

For the reasons given above, I require AXA Insurance UK Plc to:

- arrange subsidence cover, on reasonable terms, for a minimum of three years from the date of issue of a final COSA and
- pay Mrs R £1,500 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R and Ms R to accept or reject my decision before 9 July 2025.

Daniel Martin  
**Ombudsman**