

The complaint

Mr C complains about how AXA Insurance UK Plc settled a claim he made on his commercial property insurance property.

Reference to AXA includes its agents.

What happened

Mr C holds a commercial property insurance policy with AXA. He complains that AXA haven't paid for all the damage claimed for following an escape of water claim.

AXA said it's not paying for all of the damage because it considers some of it to be caused gradually – something the policy specifically excludes. It said the leak happened in August, but Mr C didn't report the claim to it until December.

Mr C didn't think this was fair and complained. He said when the leak happened, he arranged and paid for the damage to be fixed himself. He didn't make a claim at that point because he thought the cost of the claim would be less than the excess. He said no one involved in the initial repair thought there was any further issue with the floor. He says he reported the claim to AXA as soon as he realised there was further damage.

AXA didn't change its stance, so Mr C brought his complaint here.

Ultimately, our Investigator didn't recommend it be upheld. They thought that Mr C should have reported the initial leak to AXA in August, even if he didn't want to make a claim. They thought if Mr C had done this, some of the damage would have likely been avoided. So, they didn't think it was fair to require AXA to pay for that damage.

Mr C didn't agree, he said our Investigator had said they were treating him as a commercial customer which he didn't think was fair. He thought it would be fairer to treat him as a non-commercial customer based on the circumstances which lead to him owning the property.

Our Investigator didn't change their opinion, so, the case has come to me to issue a decision on.

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.

Having done so, I'm not upholding it. I'll explain why.

Firstly, I agree with our Investigator that Mr C in this case, should be viewed as a commercial customer. I appreciate everything Mr C has said in relation to why he owns the property and why he rented it out. But I'm not persuaded any of that means he should be treated as a non-commercial customer. While his intentions were clearly not to always rent the property out, it was purchased while being rented out, and that arrangement continued during his ownership.

With that in mind, I've gone on to consider the rest of the complaint through that lens. And as a commercial customer, like our Investigator pointed out, Mr C has a greater responsibility to understand his policy.

So, what I need to answer here is firstly: Should Mr C have notified AXA of the escape of water when it happened in August as opposed to December when he discovered further damage? And if he should have, would him doing so have reduced the amount AXA will have needed to pay on the claim?

In short, I'm satisfied the answer to both those questions is yes.

The policy is clear in that Mr C needs to notify AXA of any loss. He'd clearly suffered a loss so I think it's reasonable he notify AXA of it, irrespective of whether he was intending to claim, or thought there may be further damage to claim for.

If he'd done that, he'd have passed the burden on to AXA. AXA would have then been the responsible party. If it had come out to assess the leak, it's entirely plausible that it would have found that work needed to be done and that damage unseen to Mr C, or his contractors had been caused. By not reporting the claim until December Mr C's denied AXA that opportunity.

It's possible AXA would have done nothing had Mr C contacted it in August when I'm satisfied he should have. But if AXA had done nothing, then I might well have found it wouldn't be fair for it to reduce the amount it paid based on some of the damage being caused gradually over time.

Looking at the damage, I'm satisfied AXA has shown it's been caused gradually over time. Mr C himself doesn't really dispute this element – his argument is that he didn't know it was occurring until he reported it. And I'm reasonably satisfied, as explained above, that his failure to report the loss impacted the damage claimed for and prejudiced AXA's position.

Therefore, based on the above, I'm satisfied AXA is fairly not covering all of Mr C's claim because it deems some of the damage to be caused gradually over time, something that the policy specifically excludes.

My final decision

For the reasons set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 6 June 2025.

Joe Thornley
Ombudsman