

The complaint

Mr and Mrs M complain that AXA Insurance Designated Activity Company declined a claim they made under their buildings insurance policy.

Reference to either party includes their respective representatives.

What happened

The circumstances of this complaint aren't in dispute, so I'll summarise the main points:

- Mr and Mrs M got in touch with AXA in August 2023. They said their septic tank had been emptied in June, but it was already full again, so they thought there was a problem with the drainage system. Mr and Mrs M provided a report from a drainage company, B, about the problem.
- AXA also took advice from a drainage company, C, and went on to decline the claim. It said the damage had been caused by wear and tear and the system had reached the end of its useful life.
- Mr and Mrs M complained about this. They said they weren't claiming for the septic tank itself, so any reference to it was irrelevant. Their focus was on the pipework from the septic tank, which neither B nor C was able to clear, suggesting a significant blockage. They thought such a blockage should be covered by the policy – and said AXA hadn't provided any evidence to show wear and tear had caused it.
- AXA maintained its position. It said the cause of the problem hadn't been demonstrated – so it wasn't clear there had been any accidental damage, as required by the policy for there to be cover. It also noted that accidental damage caused by wear and tear, or otherwise gradually, wasn't covered by the policy – and it thought the damage was the result of wear and tear or gradual deterioration over time.
- Our investigator thought AXA had acted unfairly. She said the professional evidence showed there was damage – and it met the relevant policy terms. She asked AXA to reconsider the claim and pay £150 compensation.
- AXA didn't agree. It said the drainage field was already blocked in June 2023, there had been a lack of maintenance, and reiterated its view that the system had reached the end of its serviceable life.
- Mr and Mrs M reiterated that they weren't claiming for the septic tank – and the drainage companies had said it was functioning – so they were disappointed to see continued reference to it by AXA. They said they moved into the property after the time AXA said there had been a lack of maintenance, and had maintained the drainage system since then. They didn't experience any problems until 2023.

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.

- When considering what's fair and reasonable in the circumstances I've taken into account relevant law and regulations, regulators' rules, guidance and standards, codes of practice and, where appropriate, what I consider to have been good industry practice at the time. Whilst I've read and taken into account everything said by both parties, I'll only comment on the points I think are relevant when reaching a fair outcome to this dispute. That's a reflection of the informal nature of this Service.
- The policy covers accidental damage to underground water supply pipes, sewers, drains, septic tanks and the like. Accidental damage is defined in the policy to mean damage which is sudden, unexpected, visible, and not caused on purpose. The policy excludes any damage arising from wear and tear or which happens gradually.
- AXA's primary reason for declining the claim is that it doesn't think accidental damage, as defined by the policy, has occurred. Its secondary reason is that, even if accidental damage had occurred, it was caused by wear and tear and/or gradually.
- I'll consider the professional opinion available about the problem and then go on to consider whether AXA has acted fairly and reasonably in the circumstances.
- B's report said the septic tank appeared serviceable. But the drainage field pipework appeared to be damaged, as there was a steady flow back to the septic tank from that pipework. It didn't say how the damage had been caused in the report, though it later said construction of a garage nearby could have been the cause. It said both the inlet and outlet inspection chambers had become damaged.
- C's report said the system had failed extensively and had come to the end of its serviceable condition. It thought this was a result of wear and tear over time, rather than accidental damage. C also said there was a 3.5 year gap in maintenance between 2016 and 2020 – but the system should be maintained annually. Like B, C observed backflow into the septic tank and a problem with the inlet and outlet chambers. C said there were no structural failings with the septic tank.
- Mr and Mrs M have been clear their claim is not for the septic tank. Neither B nor C indicated it was damaged. So I don't think the tank itself needs further consideration.
- Similarly, whilst both B and C noted problems with the inlet and outlet chambers, I haven't seen anything to suggest these problems are disturbing the usual function of the drainage system – and Mr and Mrs M haven't indicated the chambers form part of their claim. So I don't think they need further consideration either.
- The drainage field pipework is the focus of Mr and Mrs M's claim, so it will be my focus too. Neither B nor C were able to inspect the pipework. I understand neither were able to clear it for inspection due to backflow. As a result, neither has been able to see what's causing the problem. But both found considerable backflow from the pipework to the septic tank, so it doesn't seem to be in doubt that's happening.
- I think it's clear there's a problem with the drainage field pipework and/or the drainage field itself. They could be damaged and/or blocked. I consider a blockage amounts to damage, because it prevents the normal function of the system. So that

could mean there was accidental damage, as defined by the policy – which may or may not have been caused by wear and tear or another gradual cause.

- C said the overall system has come to the end of its useful life, so I think it's saying the drainage field pipework has been damaged by wear and tear. But I haven't been persuaded that's likely so. I'll explain why.
- C hasn't been able to inspect this pipework. And whilst it noted the age of the system, it also noted the septic tank had no structural failings – and has continued to function as intended. So I don't think the age of the system alone shows the pipework likely failed due to wear and tear.
- C noted there may be a gap in maintenance between 2016 and 2020. But Mr and Mrs M didn't move into the property until 2020 – after which they had it maintained annually. And C hasn't made a clear and direct link between any historic lack of maintenance and the pipework problem.
- AXA said Mr and Mrs M had the tank emptied in June 2023 and got in touch with AXA in August 2023. In the meantime, they contacted the tank emptier to check that process had been carried out correctly – and were told it had been. The tank emptier noted in June 2023 that the drainage field was blocked. I don't think any of this is in dispute – but it's not clear how AXA thinks this supports its position. It simply means the drainage field was blocked in June 2023.
- Mr and Mrs M say they first noticed a problem in 2023. I haven't seen anything to suggest they caused the problem on purpose or ought to have expected it. The problem and its impact are visible. They experienced the problem suddenly and I haven't been persuaded the damage was gradual. That means the available evidence shows the problem meets the policy definition of accidental damage – and the exclusion raised by AXA doesn't apply.
- Taking all of the above into account, I'm satisfied it's likely the drainage field pipework and/or drainage field is damaged or blocked in a way that amounts to accidental damage. I'm not satisfied it's likely that was caused by wear and tear or otherwise gradually. That means it was unfair for AXA to decline the claim, based on the strength of the available evidence.
- To put things right, AXA should reconsider the claim, subject to the terms and conditions of the policy.
- AXA should also pay compensation, as its decision to decline the claim has caused Mr and Mrs M avoidable distress and inconvenience. It's prolonged the time the problem has been outstanding for, and that's had an impact on Mr and Mrs M and their family. I'm satisfied £150 is fair and reasonable in the circumstances.

My final decision

I uphold this complaint and require AXA Insurance Designated Activity Company to:

- Reconsider the claim, subject to the terms and conditions of the policy.
- Pay £150 compensation for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M and Mrs M to accept or reject my decision before 26 May 2025.

James Neville
Ombudsman