

## **The complaint**

Ms Y complains about how AXA Insurance UK Plc handled a claim she made on her home insurance policy.

Reference to AXA includes its agents.

## **What happened**

In July 2023, Ms Y made a claim to AXA, who she held a home insurance policy with, following damage she said was caused by a storm.

AXA initially accepted the claim, but after reviewing the circumstances it changed the claim, from a storm claim, to a flood claim.

While validating the claim, AXA said Ms y had answered the questions she was asked when she took the policy out, about how close the property was to a waterway and its previous flooding history incorrectly. It thought this was a careless qualifying misrepresentation.

AXA said had it known about the property's proximity to a waterway and its previous flooding history it would have charged more for the policy. It said that meant Ms Y had only paid it 81% of what she should have, so it said it only intended to pay her 81% of the claim.

Unhappy with this and with delays in coming to this decision, Ms Y complained. She thought AXA should have validated the policy earlier, and if it had, she'd have paid the additional premium required to make sure she was fully covered.

AXA didn't change its stance around the claim payment. But it acknowledged there were delays and paid £550 compensation.

Ms Y remained unhappy and brought her complaint to the Financial Ombudsman Service.

Our Investigator didn't recommend it be upheld. He thought AXA had shown it was entitled to take the action it did surrounding the claim, both in terms of deeming it a flood and not a storm claim, and in terms of its proportional settlement. Our Investigator thought the compensation paid was reasonable for the delays caused.

Ms Y didn't agree and asked for an Ombudsman's decision. She thinks that it was clear AXA had all the information at the point the claim was made and thinks this was held on to in order to allow it to settle her claim for less.

## **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.

It's important to note here that I'll not be commenting on every bit of evidence or argument

received. Instead, in line with our role as an informal service, I'll comment on what I consider to be key.

### *Storm or flood?*

Ms Y says she made this claim as a storm claim. She said this is relevant because she claimed not only for damage caused by water entering the property at ground level but also damage to higher levels of the property.

AXA thinks this isn't a storm claim because it doesn't think there were storm conditions present at the time of the claim. So it's said the damage to the roof isn't covered.

Our Investigator thought that was fair. He said in the two weeks prior to the claim the wind speeds didn't reach the level needed to be deemed a storm. From what I've seen, that's a reasonable decision. Without evidence of a storm, there can be no successful storm damage claim.

I understand Ms Y said the loss adjuster dealing with the claim said they were busy with so many storm claims. But that in itself isn't evidence of a storm where Ms Y's property is. Aviva is satisfied it's a flood claim, accepting liability for other damage parts of the property.

### *Proportionate settlement*

The relevant law in this case is The Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA). This requires consumers to take reasonable care not to make a misrepresentation when taking out a consumer insurance contract (a policy). The standard of care is that of a reasonable consumer.

And if a consumer fails to do this, the insurer has certain remedies provided the misrepresentation is - what CIDRA describes as - a qualifying misrepresentation. For it to be a qualifying misrepresentation the insurer has to show it would have offered the policy on different terms or not at all if the consumer hadn't made the misrepresentation.

CIDRA sets out a number of considerations for deciding whether the consumer failed to take reasonable care. And the remedy available to the insurer under CIDRA depends on whether the qualifying misrepresentation was deliberate or reckless, or careless.

Here, AXA thinks Ms Y failed to take reasonable care when she answered the questions asked about the proximity of the nearest waterway to her property, and the property's previous flood history.

I've looked at the questions she was asked here. I'm satisfied both were clear.

In relation to the distance from water, Ms Y was asked whether she agreed with the following statement: *"The property is more than 400 metres from water"*. Ms Y answered agreeing with this, but AXA has shown that this is untrue, the property is located within just 30m of the water.

This, I'm satisfied is a failure to take reasonable care, with the water being so close to Ms Y's property, I think a reasonable consumer would have known about this and disagreed with the statement above. So, in agreeing, Ms Y has made a misrepresentation and failed to take reasonable care when doing so.

Ms Y was also asked to agree with this statement: *"The property has no history of flooding from any natural source such as streams, rivers, lakes or the sea"*. Ms Y agreed to this, but

AXA has shown that one of the disclosed claims was a flood, not a storm, and it's also shown two further undisclosed claims, one of which was a flood claim.

So again here, I'm satisfied this is a failure to take reasonable care not to make a misrepresentation. I say this because even though I'm aware Ms Y deemed one of her disclosed claims as a storm claim not a flood claim, she will have been aware of the damage caused and the reason for this. In addition, there's another claim which is listed as a flood claim on her claims history at this property. I'm satisfied a reasonable consumer would have disagreed with the statement above. Therefore, by agreeing, Ms Y has made a misrepresentation and failed to take reasonable care when doing so.

Key here is when the misrepresentation was made, and I'm satisfied this was when the policy was taken out, which is naturally before the claim was made. I understand Ms Y has issue with when she was told this information – i.e. when she was told the answers she'd given were wrong.

But I'm satisfied the first AXA knew of it was after she made her claim. I appreciate Ms Y wasn't told until much later on in the claim process, but I'm satisfied that makes no difference to what AXA is entitled to do in relation to settling her claim. The fact she has been allowed to pay more premium to get the policy up to 100% coverage following the claim (at a subsequent renewal), does not mean she needed to be given that chance at the claim stage.

I'm satisfied that given the above misrepresentations, AXA has shown that it would have acted differently. Therefore I'm satisfied these misrepresentations are qualifying ones under CIDRA.

AXA has deemed these misrepresentations careless, and because that gives the most favourable outcome to Ms Y, I don't intend to look into that further.

AXA has shown that *for the year the claim was made* Ms Y had only paid it 81% of what she would (and should) have paid it were no misrepresentations made. CIDRA sets out that in such situations, the insurer, so AXA, is entitled to proportionately settle the claim on the same basis. So, because AXA is only willing to settle 81% of Ms Y's claim, I'm satisfied it's acting in line with CIDRA and therefore, fairly.

#### *Compensation for delays*

Delays have occurred here and some of them were avoidable. I understand Ms Y's case handler left AXA. AXA couldn't have avoided that. But this took far too long to be rectified and as a result the claim stalled and that could have been avoided, or at least shortened. Overall, AXA paid £550 for delays. I'm satisfied that's reasonable for the distress and inconvenience caused here and that that award is in line with our service's approach. Ms Y had to chase more than can be reasonably expected and AXA took longer than it should have to reach its decision on the claim.

#### **My final decision**

For the reasons set out above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms Y to accept or reject my decision before 16 October 2025.

Joe Thornley  
**Ombudsman**