

## **The complaint**

Mr B has complained about the amount that AXA Insurance UK Plc has offered to settle a claim he made under his buildings insurance policy.

Reference to Mr B and AXA includes their respective agents and representatives.

## **What happened**

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

- Mr B got in touch with AXA to make a claim for water damage after a pipe burst in his kitchen. AXA accepted the claim and said it would pay 59% of the claim value.
- AXA said it was entitled to settle the claim this way because Mr B hadn't provided the right information when taking out the policy. And, if he had done, it would have charged a higher premium for the policy. He'd paid 59% of the premium AXA thought he should have done, so AXA offered to pay 59% of the claim value. It also said it would have applied different policy excesses.
- The information related to four points: the type of property, date of construction, distance from water, and rebuild value for outbuildings.
- Mr B accepted he'd made a mistake on the first point but disputed the others. AXA maintained its position.
- Our investigator thought AXA had acted fairly on the first three points – but not in relation to the rebuild value for the outbuildings. He asked AXA to reconsider the proportionate settlement without taking that rebuild value into account.
- AXA disagreed and maintained it had acted fairly. As an agreement wasn't reached, the complaint has been passed to me. Whilst seeking further information from AXA to clarify its position, a fifth point has emerged – a previous claim.

## **My provisional decision**

I recently issued a provisional decision in which I said:

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.

- In summary, this complaint has arisen because AXA says Mr B gave inaccurate information when he took the policy out. So I'll consider the points AXA made about this. Before that, I'll start by summarising what AXA was responsible for.

#### *What was AXA responsible for?*

- The policy was sold by H, an independent intermediary. As a result, AXA isn't responsible for H, H's sales process, or H's documentation and communication. Mr B is entitled to make a separate complaint against H if he wishes.
- AXA is responsible for letting H know what information needed to be gathered from Mr B in order to setup and renew the policy. AXA is entitled to take whatever information H has gathered at face value and then set the policy terms and premium accordingly.
- AXA is also responsible for handling the claim promptly and fairly. As part of that, if it considers Mr B provided unreasonable information at the sale or renewal, it should act in line with the relevant law.
- That law is the Consumer Insurance (Disclosure and Representations) Act 2012 (or "CIDRA"). It places a duty on the consumer, in this case Mr B, to 'take reasonable care not to make a misrepresentation'.
- In summary, if Mr B fulfilled that duty, AXA can take no action. If AXA can show he didn't fulfil that duty, and AXA can show that it would have acted differently if he had fulfilled that duty, CIDRA sets out the remedies available to AXA. Depending on the circumstances, that can include settling the claim proportionately, and/or retrospectively applying policy terms, such as an increased excess.
- Strictly, I don't think CIDRA applies to an estimate – only to matters of fact. The outbuildings rebuild cost is an estimate in my view. But I think it would be fair and reasonable for AXA to take into account the principles of CIDRA regardless. These principles are representative of long term good industry practice.

#### *Type of property*

- AXA wanted to know what type of property Mr B had. He said it was semi-detached. But he accepted he made a mistake on this point, as it's actually mid-terrace.
- As a result, I'm satisfied his answer on this point was unreasonable.
- That means if AXA can show it would have acted differently had it been given a reasonable answer, it has a remedy available. I'll return to that in a later section.

#### *Date of construction*

- AXA wanted to know when the property was built. It wanted Mr B to estimate the year that the property's foundations were first built.
- Mr B answered 1987. AXA said it was built in 1710. It's unclear why it thought 1710 was a reasonable estimate, though it seems to be accepted the original property was built prior to 1987.

- Mr B said his house is a barn conversion that was developed for residential use in 1987. At that time, it had only two walls and no roof. As well as putting that right, a new floor was laid and new windows and doors were added. So he considered the house to have been practically built in 1987.
- He's provided photos from the time which support what he's said. He's also provided a survey from the time. It estimates the original building "to be well in excess of 100 years" but also describes the extensive renovation works that have taken place. It said this included a new foundation.
- Based on this information, it seems likely the original property was built in the early 1800s, or perhaps sometime in the 1700s, although it's not clear exactly when. But I don't think that matters, because I'm satisfied Mr B's answer was a reasonable one. Given the scale of renovation work carried out in or shortly before 1987, I think the property was effectively built at this time. It had a new foundation, new floors, new walls and a new roof.
- As I consider Mr B gave a reasonable answer to this point, I'm not satisfied AXA can take any action in relation to this point. This means it can't reduce the claim settlement based on the date of construction.

#### *Distance from water*

- AXA wanted to know whether Mr B's property is within 200 metres of water. It wanted to know how far the property is situated from tidal waters, rivers, streams, lakes or other watercourses.
- Mr B answered no. He accepted his house is within 50m of a canal, but said he didn't think that was a watercourse. I understand in part this is because canals rarely flood.
- I'm satisfied a canal is a watercourse, because it's a body of water. I understand canals are generally less likely to flood than the other watercourses on the list. But they are watercourses and can flood.
- As a result, I'm satisfied his answer on this point was unreasonable.
- That means if AXA can show it would have acted differently had it been given a reasonable answer, it has a remedy available. I'll return to that in a later section.

#### *Rebuild value for outbuildings*

- AXA wanted to know whether £20,000 was enough cover to rebuild all detached outbuildings. That included garages, greenhouses, sheds and summerhouses.
- Mr B said £20,000 was enough. AXA estimated the outbuildings would cost around £68,000 to rebuild, based on July 2024 costs. That was made up of £59,000 for the garage, £6,000 for the car port, and the remainder for the shed.
- Mr B took out the policy in September 2023 and it was at that time he answered each of these points. So I think he could only reasonably have been expected to estimate whether £20,000 was enough at that point in time – not at some unspecified time in the future.

- AXA has been asked to estimate the outbuilding rebuild cost in September 2023, but hasn't done so. Whilst the difference in cost between then and July 2024 may be minimal, it's to Mr B's detriment, so I don't think that's fair. Nonetheless, even with a small reduction to take into account building cost inflation during that time, it's clear AXA will estimate the rebuild cost at significantly more than £20,000.
- Mr B provided a quote to rebuild the garage, from a company I'll call C, based on July 2025 costs, at £31,500. AXA has considered it, but hasn't changed its position. It's said the quote shouldn't be relied upon because it has no company name or contact details – and the address listed doesn't correspond to a company address. It's also unclear whether it includes VAT, which could have a significant impact on the cost.
- Mr B says AXA has already settled some of the claim based on C's work and invoices. So AXA seems to have accepted C is a legitimate and credible company. C's contact details are available if AXA had asked for them and the different addresses have been satisfactorily explained. So I'm satisfied it's reasonable to rely on C's quote.
- C said the quote would reduce by a few hundred pound at September 2023 costs. I understand C is VAT registered, so I assume VAT is to be added to the quote. Taking both these points into account, I think C has said the rebuild cost for the garage is around £37,500. That's significantly less than AXA's estimate of £59,000. I bear in mind C is a builder, who could carry out the work. So I think their estimate is more reflective of the likely rebuild cost than AXA's.
- In these circumstances, I consider a fairer estimate for the outbuildings rebuild cost is around £47,500. That means Mr B's answer was unreasonable, but not to the extent AXA said it was. As a result, AXA may be able to take action, but based on this lower rebuild cost, rather than £68,000.
- That means if AXA can show it would have acted differently had it been given a reasonable answer, it has a remedy available. I'll return to that in a later section.

#### *Previous claim*

- AXA said it would increase the escape of water excess from £500 to £750. It wasn't clear to me why it thought it was entitled to do that. It's recently said this is because Mr B had a previous claim, but didn't let AXA know when he took the policy out.
- I haven't seen this point was raised by AXA previously. It's disappointing to see this information emerge at a late stage of the complaint investigation.
- AXA wanted to know whether Mr B had made any previous claims or suffered any losses that didn't give rise to a claim – both within the last five years. Mr B said he hadn't. But AXA says he made a claim to a previous insurer, who I'll call R, in 2022.
- I haven't seen anything to show AXA has asked Mr B about this to understand the position further – and decide whether his answer was unreasonable. Nor have I seen anything to show it explained to Mr B why this meant it was entitled to increase his escape of water excess.
- So, as it stands, I'm not satisfied AXA has shown Mr B's answer to this point was unreasonable. As a result, I'm not satisfied AXA can take any action in relation to this

point. This means it can't increase the escape of water excess. Nor can it reduce the claim settlement based on a previous claim, if this is a relevant factor.

#### *Would AXA have acted differently*

- To recap, I've found above that Mr B gave unreasonable answers in relation to the type of property, distance from water, and outbuildings rebuild cost – although on the last point, a reasonable answer would have been a lower amount than AXA said.
- If AXA can show it would have acted differently if it had been given reasonable answers to any of these points, it has a remedy available. AXA has said it would still have offered the policy, but would have charged a higher premium. In line with CIDRA, that means it can proportionately settle the claim consistent with the proportion of the premium paid to the premium that should have been paid.
- AXA said that proportion was 59%. That was on the basis the date of construction answer was unreasonable, the outbuildings rebuild cost was greater than I found above, and there was a previous claim. Once these points are taken into account, I expect 59% would increase to some extent. I don't know to what extent, so I'll call that X%.
- For AXA to reduce the claim settlement from 100% to X%, it must show the premium impact caused by the unreasonable answers. It's provided this Service with some underwriting information to seek to show the premium impact. It's commercially sensitive information, so it wouldn't be appropriate for me to share it all in detail.
- In summary, I haven't been persuaded by the underwriting information AXA has provided. The key point is this. Mr B paid around £180 plus insurance premium tax ("IPT"), or around £200. Yet the underwriting information bears no resemblance to these amounts. I understand the calculation may start with a 'base premium' which is increased or decreased depending on the answer to each question and the risk AXA attaches to it. Yet the calculation table I've seen takes these steps and then reaches a total which doesn't clearly link to the steps.
- In these circumstances, I'm not satisfied AXA has shown it would have charged a higher premium if it had been given reasonable answers to the relevant points – or, even if it would have done, *how much* higher. As a result, I'm not satisfied it's shown it would have acted differently if it had been given reasonable answers to the relevant points. It follows that I'm not satisfied it has a remedy.

#### *Summary*

- To put things right, AXA should settle the claim without a proportionate settlement or an increased escape of water excess. Remaining policy terms and limits still apply.
- I understand AXA has already made a payment towards the claim settlement. It should now pay the remainder. Mr B has unfairly been without the remainder for a period of time. So AXA should also add interest to that payment, from the date it made the earlier claim settlement payment.
- Lastly, I consider the way AXA has handled this matter has caused Mr B avoidable distress and inconvenience. I'm satisfied £250 compensation is fair and reasonable in the circumstances.

## 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.

- Mr B said he had nothing further to add. I understand he accepted my provisional decision.
- AXA said it didn't agree with my provisional decision. It provided further comments but no further evidence. I'll focus on the key points it made.
- AXA didn't comment on my findings about the date of construction, so I understand it accepted my findings on this point.
- AXA maintained it was entitled to a remedy of proportionate settlement in relation to the type of property, distance from water, and rebuild value for outbuildings. In my provisional decision, I found Mr B's answer to these points was unreasonable. So, if AXA could show it would have charged a higher premium had it been given reasonable answers, and how much more it would charged, I said it could apply a proportionate settlement. So I don't think this principle is in dispute with AXA.
- Having considered the underwriting evidence AXA provided about this, I wasn't persuaded it clearly showed AXA would have charged a higher premium if it had been given reasonable answers to the relevant points – or, even if it would have done, *how much* higher. That's why I said it had no remedy on these points. In response to my provisional decision, AXA hasn't provided any further underwriting evidence or comment. As I wasn't persuaded by the evidence before, and no new evidence has been provided, I'm still not persuaded. My position hasn't changed.
- AXA also maintained it was entitled to a remedy of an increased excess in relation to the previous claim. In response to my provisional decision, it said it had found a previous claim on an industry database and discussed it with Mr B.
- That may be so, but that alone doesn't fulfil the steps required by CIDRA in order for AXA to have a remedy. Whilst it said it discussed the matter with Mr B, it hasn't set out what those discussions entailed. In particular, it hasn't explained why it considers Mr B's answer on this point was unreasonable. There are many reasons why Mr B may not have declared a previous claim when taking out the policy – some reasonable, some unreasonable. So, without further information from AXA on this point, it hasn't fulfilled the steps required by CIDRA – and it therefore has no remedy.
- This is the sort of information that should have provided at a much earlier stage of the complaint investigation. Despite being given ample opportunity to provide the information, AXA hasn't done so. In these circumstances, I'm not satisfied it would be fair to Mr B to postpone the resolution of his complaint further and offer AXA more opportunities to explain itself. So I'm not going to do so.
- Whilst I've carefully considered AXA's response to my provisional decision, for the reasons given above, I haven't been persuaded to change my findings. Mr B accepted my provisional decision. As a result, I remain satisfied the award I set out in my provisional decision is a fair and reasonable one.

## **My final decision**

I uphold this complaint.

I require AXA Insurance UK Plc to:

- Settle the claim without a proportionate settlement or an increased escape of water excess, by making a payment. Remaining policy terms and limits still apply.
- To that payment, add interest at 8% simple per annum, from the date of the earlier claim settlement payment to the date of settlement\*.
- Pay £250 compensation.

\*If AXA considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr B how much it's taken off. It should also give Mr B a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 21 October 2025.

James Neville  
**Ombudsman**