DRN-5874512

The complaint

Mr C and Mrs C complain that AXA Insurance UK Plc ("AXA") has unfairly settled a claim in relation to their home insurance policy following a fire.

Any reference to Mr C and Mrs C, and AXA, includes respective agents and representatives.

What happened

The background of this complaint is well known between the parties. So, I've just provided a summary of what's happened below.

- Mr C and Mrs C held their home insurance with AXA. The sum insured recorded for their property was £150,000.
- In June 2024 Mr C and Mrs C's hot-tub caught fire and was destroyed. They said the hot-tub's value was around £5,200.
- AXA appointed an agent (Company G) to review the claim, and they said Mr C and Mrs C's property was underinsured, saying its calculations valued the property at £699,000 instead of the £150,000 that was recorded.
- AXA accepted the claim – but as it classed the hot-tub as contents under the policy, it said a policy limit of £1,500 would apply which it agreed to pay.
- On 8 July 2024 AXA wrote to Mr C and Mrs C to say it had made a change to their policy, increasing their VAR from £150,000 to £699,000. Their premium now showed as an annual cost of £895.89 – rising from £695.73. AXA confirmed to this Service this was solely as a result of the buildings VAR and not contents.
- AXA discussed settling the claim on a proportionate basis in light of the underinsurance – but from what I've seen it has agreed to pay £1,500 which it says is the individual limit it'll pay for a content "*in the open*".
- Mr C and Mrs C said Company G's agent was inexperienced and wildly overvalued the rebuild cost of their home using a BCIS calculator. They argued the tool the agent used, did not allow for the predominant building material to be entered as "*concrete block*" so they mistakenly had input "*stone*".
- Mr C and Mrs C also argued the hot-tub was fixed as it weighed over 160kg, was wired underground, and was anchored in concrete. As this was not portable (and would require a crane to move) and given its weight they argued it should be classed as a fixed appliance and an "*outdoor permanent structure*" in line with the policy terms – meaning the full value of the replacement (including delivery and disposal) should be covered under their insurance.
- Mr C and Mrs C brought their complaint to this Service. They explained they've been without the use of the hot-tub since the incident and the experience had caused considerable stress, distress and inconvenience.
- Our Investigator assessed the complaint and upheld it, saying:
    - *Hot-tub claim*: She was satisfied AXA was correct to consider this item under

the contents part of the policy and limit it to £1,500 as it had done so.

- *Underinsurance*: It was fair for AXA to consider whether Mr C and Mrs C were underinsured, but the assessments they'd completed to calculate this value didn't appear accurate as they referred to two separate properties, which Mr C and Mrs C didn't have. And AXA's own notes show the rebuild calculator used was not suitable for this type of property given its age and make up.
- From Mr C and Mrs C's own submissions it appeared evident they were underinsured. But as it stands, there wasn't sufficient evidence to show an accurate figure for the VAR to take reasonable steps regarding the underinsurance.
- She directed AXA to appoint a suitably qualified individual to assess the VAR. And to pay £200 in compensation for the distress and inconvenience. As well as refund the increase in premiums as AXA was unable to justify its increase.

- AXA responded to say it disagreed it would be reasonable for it to carry out a VAR assessment given Mr C and Mrs C had now found a new insurer, and the claim was limited to the £1,500 anyway and wasn't reduced by the underinsurance.
- Mr C and Mrs C also disagreed, saying:
  - The absence of their hot-tub being "*plumbed in*" should not define whether its classed as "*fixed*" as the policy does not specify this. And they provided details of websites that sell hot-tubs to demonstrate most hot-tubs are not plumbed in. Their hot-tub was not designed to be deflated or put away when not in use and had no wheels for movement.
  - Many other items that could be classed as permanent within a garden could be physically moved as the Investigator described the hot-tub could be. And the wire beneath the hot-tub would require cutting then for an electrician to re-wire it in a new location.
  - The sheer weight of the item (at around 160kg) would be far in excess of the definition of a portable appliance in line with the PAT testing code of practice.
  - Mr and Mr C agreed their original estimate of their VAR was inaccurate and said they would accept 50% of cover to bring the matter to a close and avoid unnecessary further assessments.
- The Investigator said Mr C and Mrs C's submissions didn't change her mind. And given they'd changed insurer she no longer was directing AXA to appoint a surveyor.

So, the matter was passed to me for an Ombudsman's decision. I issued my provisional thoughts on the complaint on 26 September 2025. I've included an extract of this below.

> "There are a few aspects to this complaint, we have the claim for the hot-tub itself, then considerations of underinsurance, and the increase to Mr C and Mrs C's premiums which they say they never agreed to. I'll consider these in turn.
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> *The hot-tub – a buildings or contents item?*
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> In this case there's no dispute that an insured peril has taken place, and the claim has been accepted by AXA without issue. However, the parties disagree on whether the hot-tub that's being claimed for falls under the buildings part of the policy, or the contents part of the policy. And this is important because different policy limits apply to these different sections.
>
> I'll start with the buildings side of the cover. This says it covers the policyholders'

buildings,

of which the definition of buildings includes *outdoor permanent structures*.

"*Outdoor Permanent Structures*" is defined in the policy as permanent structures within the boundary of the property. And it lists some examples permanent structures – including "*fixed hot tubs or Jacuzzis*".

All parties agree it's a hot-tub that's being claimed for. So, it seems clear to me that I have to determine if Mr C and Mrs C's item meets the requirement of being a "*fixed hot tub*", and if it does, then it'll be covered under the buildings part of the policy.

There's no set definition of "*fixed*" within the policy, so I've thought about everyday use of the term fixed in line with dictionary definitions. The common theme across various definitions I've seen appears to me to be the lack of movement of an item, and for it to be secured.

From what I've seen, there are many inflatable hot-tubs (including many high-end items of this nature) that are sold for their portability and designed to be stored for winter months.

Mr C and Mrs C's hot-tub is large and weighs around 165kg (without water) according to its instruction manual. Within its manual under the section entitled "*Choice of location*" it states "*Remember that the location should be considered permanent*." This choice of wording suggests to me that this item is not designed to be moved once its installed. And there's no feature within its design for it to be moved or stored elsewhere.

While this same manual describes it taking four or five physically strong individuals to lift it, this is only in context of moving the item at installation stage from a pallet. So, I think this supports that this was not designed to be relocated and to do so would be very challenging. The manual refers to it being lifted to service it, but I don't think that changes the manufacturer's intention of it to remain in the original installation location. Again, there's no reference to this being a moveable or portable device – and given its size this doesn't surprise me. The hot-tub could weigh up to 2000kg when full of water.

Mr C and Mrs C have provided photos of the underneath of the hot-tub. They say the photos show it was anchored in concrete and was wired underground. From what I've seen the hot-tub was secured to an embedded metal loop in the ground (which I understand to be concrete) by a linked metal chain attached with a padlock. The photos also show a wire running from the tub into the ground underneath. From what Mr C and Mrs C have said, to move the item would require cutting that wire and an electrician to rewire it at the new location (if it were to be moved).

Given the hot-tub's weight, size, wiring underneath the hot-tub into the ground, and anchoring to the ground, it strikes me that Mr C and Mrs C's tub is not something that is going to be readily or easily moved. To do so would no doubt require a lot of effort and cost, and would be against the manufacturer's guidelines. I note there was a point discussed previously about it being possible to simply take off the padlock and the item would not be secured. But again, given the weight, and practicalities of moving it – I don't agree that the possibility of the padlock being removed means it is no longer fixed in the circumstances.

As a result, I'm satisfied that Mr C and Mrs C's hot-tub is a fixed one. And in turn,

AXA has considered this claim under the wrong section of cover and it instead should cover this under the buildings part of Mr C and Mrs C's policy in line with the remaining terms and conditions.

Underinsurance

AXA will be aware of this Service's approach to underinsurance. We consider misrepresentation principles, and in line with those questions we'd typically look at whether a clear question had been asked of the policyholder and whether they gave a reasonable answer or estimate when looking at a valuation.

Within the renewal documentation it says "*Your buildings sum insured needs to cover the full cost of rebuilding your property should it be completely destroyed or damaged beyond repair.*" And I'm satisfied this wording is clear.

In this case, it is evident to me that Mr C and Mrs C gave an inaccurate value at risk ("VAR") for their property, and they've said this themselves.

So, I'm satisfied that the figure given by Mr C and Mrs C was not a reasonable estimate. And in turn this allows AXA to consider what the impact of this would be. That impact is dependent upon what a reasonable estimate would've been.

AXA has provided some data to show the VAR of Mr C and Mrs C's home as around £699,000. AXA has given me a copy of the Company G report from 25 June 2024 and its use of the BCIS calculator. This report provides a relatively detailed summary of the property, including the materials its made of, and the circumstances of the claim. Within this the agent said:

> "*…The Value of Risk would be in the region of £699,000 based on the BCIS guide and figures attached. Please note the BCIS guide does not allow us to accurately estimate the Value of Risk as part of the property was constructed circa 1670 and we would suggest Insurers appoint a surveyor to accurately estimate the Value of Risk of the property.*"

From what I've seen of the BCIS calculations its given – as outlined by our Investigator previously – it appears this was calculated as two separate properties which I don't think is right here. I can't see AXA has given a reasonable explanation for this. And alongside this, the agent's own concerns specifically highlight that this isn't an accurate figure and that the insurer should do more – which it didn't.

Mr C and Mrs C have provided their own calculations based on the property being made solely of brick. Given this isn't the accurate material and they've used the same tool as AXA, I would place little weight on this evidence too as an accurate VAR figure.

Had AXA been able to provide an accurate VAR, I would typically expect it to evidence what the impact the correct VAR would've had on the premiums charged – then cash settled the claim reducing it by the percentage difference between the premiums actually paid, and the premiums that should've been paid - in line with misrepresentation principles.

But here – this isn't yet possible as we don't have a VAR that appears accurate. As a result, in line with those misrepresentation principles I discussed above, I'm not satisfied AXA has demonstrated the impact of any underinsurance on its particular policy, so I don't think its fair for it to reduce this claim for the hot-tub.

If it could provide this evidence (an accurate VAR) – then I would consider it reasonable for it to settle alongside the lines I've outlined above. But I'm satisfied its had ample opportunity to obtain this, and it had specific advice from its own agent to do so, and it chose not to. So, without it, for the above reasons, I'm not satisfied AXA has a remedy available to it so I'm intending to direct AXA to:

- Settle the claim for the hot-tub under the buildings part of the policy – in line with the remaining terms and conditions of the policy.

Taking into account Mr C and Mrs C's claim isn't being reduced by their underinsurance, I'm not going to direct AXA to pay any interest alongside this settlement in this particular case. Given the time the matter has been ongoing so far, I'm not likely to allow any extensions before issuing my final decision.

Premiums increasing mid-term

From what I've seen, AXA wrote to Mr C and Mrs C to say they had told it they wanted to increase their VAR to £699,000 and their premiums went up around £200 as a result. Mr C and Mrs C said they never agreed to this – and given the dispute over the VAR I can understand why they've taken this approach.

I think AXA highlighting the impact of being underinsured to their customers when discovering this is extremely important, and I think AXA did that here. However, CIDRA doesn't allow an insurer to automatically recover additional premiums during the life of the policy, and I think it would remain the choice of the customer if they wanted to remain underinsured and carry the risks that it might entail if a claim were to arise.

So on its face, if AXA did take additional funds of around £200 without the agreement of Mr C and Mrs C I'd say this wasn't fair and that it should refund them – but this would carry the risk of any claim falling foul of this underinsurance within that policy year.

In this particular case however, given the challenges outlined above regarding the VAR I'm not satisfied that AXA has demonstrated it has calculated the correct VAR to begin with, in turn I'm not satisfied that it can fairly recalculate the required premiums. So, I'm going to direct it to refund those additional premiums charged and plus 8% simple interest on those payments from the date the money was taken until the date of settlement.

Taking everything into account, I'm satisfied that AXA has delayed matters in this case and could've taken steps regarding the VAR which would've moved things forward quicker than they have. As a result, I'm satisfied a sum of £300 in compensation is a fair sum in the circumstances taking into account the unnecessary back and forth and frustration caused to Mr C and Mrs C."

All parties have since responded to say they accept and agree with my provisional decision.

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, given all parties now agree with my provisional decision, I see no reason to depart from its reasoning. So, I'm still upholding this complaint for the reasons I gave

previously.

My final decision

I uphold this complaint and direct AXA Insurance UK Plc to do the following:

- Settle the claim for the hot-tub under the buildings part of the policy – without deduction for underinsurance – in line with the remaining terms and conditions of the policy.
- Refund Mr C and Mrs C any additional premiums paid when it re-adjusted their policy. This appears to be a sum of £200.16 which it must add 8% simple interest to as outlined above.
- Pay Mr C and Mrs C a sum of £300 to reflect the avoidable distress and inconvenience this matter has caused them.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C and Mrs C to accept or reject my decision before 7 November 2025.

Jack Baldry
Ombudsman