

## **The complaint**

B, a limited company, complains about the way AXA Insurance UK Plc has handled a claim it made on its home insurance policy for damage caused by subsidence.

## **What happened**

B has a long running claim relating to subsidence on its property. Complaints have been made by B to AXA about the handling of the claim, lack of communication and progress, and brought to this Service.

In September 2024 AXA responded to a further complaint by B. AXA acknowledged that lateral movement from the neighbouring property was an influencing factor in the subsidence, as B has argued. However, it said even if it had identified the lateral movement as being influential earlier on in the claim, the claim would still be in the position it is now, with AXA waiting on the neighbour to carry out mitigation works, before progress could be made on B's property. AXA did award £150 compensation for frustration it had caused during the claim.

Unsatisfied with that response, B referred the complaint to the Financial Ombudsman Service for an independent review. It said it thought substantial compensation should be paid, owing to significant delays caused by AXA. It there have been extremely long delays for which compensation should be paid.

Our Investigator said she'd review the complaint up until January 2025, but she wouldn't review matters previously decided on by our Service, including B's further comments that AXA delayed getting trial pit analysis. She ultimately thought that starting monitoring of the property earlier would've have made a significant difference to the claim being resolved.

However, she wasn't satisfied AXA had communicated as it should have with B, so she recommended it pay £500 compensation for the unnecessary inconvenience it had caused. She also recommended AXA reimburse B what it had paid for its own specialist report on the property in 2024. She thought this had an influence on the claim, in that it highlighted the property wasn't ready to be repaired owing to likely lateral movement from the neighbouring property.

AXA agreed with the outcome, but B didn't. It said AXA had caused avoidable delays because its own initial surveyor (in 2022) highlighted that the neighbouring property was pulling away. B said had AXA, at that stage, carried out sufficient monitoring of the high-level lateral movement, AXA would have been able to persuade the relevant local authority to carry out tree management works sooner.

## **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.

Before providing my findings, I think it's important to set out that I'm only considering matters up to January 2025, in line with our Investigator's review. And I'm not going to revisit matters which this Service has previously answered in earlier complaints. That includes about trial pit analysis and whether AXA delayed in its instruction of that.

Since AXA has agreed to reimburse B what it paid for its expert report, I won't make any further comment on this. The matter for me to decide is whether AXA should have started monitoring for lateral movement between B's property and the adjoining neighbouring property in 2022, and whether any failure to do so has unnecessarily extended the claim.

#### Should AXA have started lateral movement monitoring in 2022?

B's expert, L, who is a structural engineer produced a report dated February 2022. The report highlighted that trees at the rear of the property were "*within influencing distance of causing damage to the foundations*" and so recommended an arborist report on the trees be carried out (which AXA did). It further said considering the pattern of the cracks on the external and internal walls, it was likely the neighbouring property is "*suffering from structural movement due to the trees around its location (being end of terraced)*". However, the report didn't recommend any 'lateral monitoring' of the property. It recommended B's property and the neighbouring property have both level and crack monitoring installed.

The difficulty for AXA is that it was and is not the insurer of the neighbouring property, and so it can't install monitoring on that property without engagement from the neighbour. It did install crack and level monitoring on B's property. But I'm not persuaded AXA ignored any advice from L to install monitoring to check for 'lateral movement' at that stage, because it wasn't recommended as part of that report.

B has said AXA's own initial report in 2022 mentioned lateral pull. But in 2022 I consider what AXA was establishing was whether B's property was suffering from subsidence. In order to do that it considered a drain report, as well as an arborist report and concluded that monitoring would be appropriate. I don't think that was an unreasonable position for it to take at that time.

#### Should AXA have monitored for lateral movement before November 2024?

I can see B asked, at several points in the claim between 2022 and 2024, about lateral movement of the neighbouring property away from its, and whether the monitoring was capturing that. And I don't think, from AXA's file, that it really responded fully to these concerns or provided an explanation as to why it didn't think any monitoring of the upper floor of the property was needed.

That is until around November 2024, when AXA agreed to instal pins at the top of the building (at the front and rear) which it said would capture if there is still movement/pull from the neighbouring property. So I can understand B's frustration that this had been dismissed at various points in the claim. And I can see why, from B's perspective, it now thinks that doing this monitoring would've meant a quicker resolution to the claim.

However, from reviewing everything, I'm not satisfied that, had this monitoring been installed in 2022, it would've significantly shortened the length of the claim as B thinks. This claim was and is (since I believe it's still ongoing) complex. There were drainage issues as well as influencing trees being the cause of the subsidence to B's property. There is also the added complication that the implicated trees were owned by a third-party (TP) (not the neighbour), and that the neighbouring property was also experiencing subsidence which was also seemingly impacting B's property. It further appears, at points, that the neighbouring property and its insurer was unwilling to engage with AXA. All the above means I think this claim was always going to take time to resolve, even if 'perfectly' managed.

I'm not persuaded by B's position that the 'lateral movement' monitoring would have meant the TP would have acted sooner to carry out mitigation works to the trees. Mitigation works to the trees had already been sought in 2022, and the arborist report identified the TPs trees as being influencing factors of the subsidence. And AXA did provide the TP with the monitoring data it had. There's nothing to persuade me that more monitoring, of the upper floor of B's property, would have led to more timely mitigation works.

Ultimately, AXA told B that the TP's decision to carry out the works was not done in consultation with it. It's assumed it was as a result of the neighbouring property's evidence – because it was being more severely impacted by the movement. All of the above means I think it's unlikely any 'lateral movement' monitoring would've had a significant impact on the length of the claim up to the point of the vegetation management in August 2024.

However, it seems to me that those tree mitigation works were done in August 2024. It wasn't then until November 2024 that AXA agreed it would be useful to monitor if the neighbouring property was still pulling away from B's, or if that had stabilised, before moving to repairs. I think these monitoring points should've been thought about and installed once the tree mitigation works were completed. AXA, having learned of the mitigation works, said it would wait for the neighbouring property to stabilise before repairing B's property. However, it was also aware the neighbouring property and its insurer had been reluctant to engage with it. So I think it should've thought about ways to ensure it could be satisfied B's property was stable and so could move to repair works, such as by monitoring for any continuing lateral movement.

I also don't think it should have taken B to make this argument to AXA, for it to accept it. As such I think AXA most likely should have installed those monitoring points in August 2024.

#### Has AXA's delay unnecessarily delayed the conclusion of the claim?

The issue is that even if the monitoring points had been installed sooner as set out above, I don't think it necessarily follows that it's most likely that the claim would have been resolved four months earlier. Because that depends on what the monitoring then showed, and whether AXA decided to carry on the monitoring, over the winter period and into the spring, to ensure stability in any event. Recovery of a property after tree mitigation often occurs in the winter months. So I think it's likely – even if AXA started to monitor in August 2024, it would likely have wanted to continue that over the winter. As such I think it's difficult to say AXA has caused an unreasonable delay of four months in the conclusion of the claim. And I say that being aware also that as of June 2025, B told this Service that the monitoring was still ongoing.

All of that being said, I've no doubt it would be inconvenient for B to have to continually chase AXA and put these points to it. And inconvenient for it to consider its concerns weren't taken seriously. I agree AXA should pay compensation for this and I'm satisfied an award of £500 fairly reflects the unnecessary inconvenience caused to B due to AXA's failure on this point. I'm aware AXA has previously offered £150 compensation, to be clear my direction to award £500 includes the previous amount of £150 offered.

#### **My final decision**

My final decision is that I direct AXA Insurance UK Plc to:

- Reimburse B what it paid for its expert report, from L, dated 2024. It will need to add 8% simple interest onto the amount from the date the report was paid for, until the date of settlement\*.
- Pay B £500 for the inconvenience it has caused, less any amount already paid.

\*HM Revenue & Customs may require AXA to take off tax from this interest. If asked, it must give B a certificate showing how much tax it's taken off.

Under the rules of the Financial Ombudsman Service, I'm required to ask B to accept or reject my decision before 10 November 2025.

Michelle Henderson  
**Ombudsman**