

The complaint

Ms R complains AXA Insurance UK Plc has unfairly reduced a settlement on a claim she made on a let property.

What happened

In 2024 Ms R made a claim on her let property following an escape of water. AXA accepted the claim but said it would settle it proportionately. It said Ms R hadn't declared, at renewal in 2024, a claim she'd made in 2022 on another home insurance policy she held. It said had she declared that claim at the 2024 renewal, her premium would have been 21% more than that she paid. So, it said it would settle the claim proportionately at 79%, in line with the premiums she had paid.

Ms R complained about AXA's decision; it didn't agree to change its position and so a complaint was referred to the Financial Ombudsman Service. Our Investigator recommended it be upheld. He said under the Consumer Insurance (Disclosure and Representations Act) 2012 (CIDRA) he didn't think Ms R had failed to take reasonable care not to make a misrepresentation. As such he didn't think any of the remedies of CIDRA were available to AXA and so the claim should be paid in full. He also thought AXA should pay £250 compensation as an apology to recognise the unnecessary distress and inconvenience caused to Ms R.

AXA didn't accept that outcome, it wanted an Ombudsman to consider matters and it has now come to me to decide.

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, my finding is the same as our Investigator's, that Ms R has not failed to take reasonable care not to make a misrepresentation.

The relevant law in this area, as set out above, is CIDRA, which sets out the rights and obligations of the parties involved in arranging or renewing an insurance policy.

If a policyholder makes a mistake when answering an insurer's questions, that is known as a misrepresentation. CIDRA requires a prospective or renewing policyholder to take reasonable care to not make any misrepresentation to the insurer when applying for cover. If a misrepresentation is made which is a *qualifying* misrepresentation, then the insurer will be allowed to take certain action, such as avoiding the policy (treating it as if it never existed) or proportionately settling the claim.

AXA says Ms R made a misrepresentation at renewal in 2024, because she didn't disclose a claim she'd had on a separate property not insured under this policy. Ms R accepts there was a claim on made on a different property she owns in late 2022. However, I'm not satisfied this means Ms R failed to take reasonable care not to make a misrepresentation. I'll explain why.

At renewal in 2024, Ms R was invited to review her 'statement of fact'. It said "*please make sure the information is still true and factually correct*". Under the 'claims or loss information' it

says “*have you, joint policyholders or other residents insured under this policy: had any claims in the last 5 years*”. It shows Ms R had previously (at an earlier renewal) confirmed yes, a claim in 2022. However, at renewal in 2024, she didn't contact AXA to notify it of her later 2022 claim.

Ms R says that whilst she was aware of another claim in 2022 on another property she owns, she didn't know that AXA wanted her to disclose this at renewal in 2024, because that wasn't clear from the question. I agree that it isn't. By referring to policyholders insured “*under this policy*” I think it was reasonable for Ms R to assume that AXA only wanted to know about claims made under *this* policy. Ms R had already declared a claim she had previously made under *this* policy (also in 2022). I think this shows that she reasonably assumed she only needed to declare claims made on this policy. As such, I'm not persuaded Ms R failed to take reasonable care not to make a misrepresentation. And as such, there is no remedy available to AXA under CIDRA, and it cannot reduce Ms R's claim settlement.

In response to our Investigator's findings AXA gave two reasons it didn't agree. It provided a phone call between it and Ms R, from when she called to pay for her renewal. It says on this phone call Ms R confirmed there were no changes to make to the statement of fact. Whilst I accept that she did say that, I find that is because, having read her renewal statement, she reasonably thought she didn't have to declare the other 2022 claim. So AXA's phone call is not evidence of Ms R failing to take reasonable care.

AXA has further said Ms R was actually asked online “*Has any policyholder or resident claimed on a home insurance policy, or suffered loss or damage which wasn't claimed for, in the last 5 years*”. However, it hasn't provided any evidence to substantiate that. It's reference to 'online' I think refers to when the policy was first taken out. But AXA cannot rely on questions asked when a policy was taken out (in 2020), to say a misrepresentation was made at renewal in 2024, if the question (or statement) asked at renewal was different.

In response to our Investigator's findings AXA has insisted that the wording quoted above is a feature of its 2024 renewal process. But having read those renewal documents, I can't see it. And so, AXA hasn't shown me that is the case.

I find that Ms R did take reasonable care not to make a misrepresentation. And so, as set out above, AXA cannot rely on the remedies available under CIDRA to settle the claim proportionately. It will need to pay the claim in full. AXA will need to add 8% simple interest onto the additional payment to be made, from the date of the partial payment was issued, until the date of settlement.

I've no doubt that AXA not settling Ms R's claim in full has caused her some unnecessary distress and inconvenience, as such I'm satisfied an award of compensation to reflect that is reasonable to award to resolve this complaint. Having regard to our guidelines, I'm satisfied that £250 is a fair and reasonable sum to award. We make awards at that level where the impact of the business' mistake has required a reasonable effort for its policyholder to resolve, which has been the case here.

My final decision

My final decision is that I uphold this complaint and I direct AXA Insurance UK Plc to:

- Settle Ms R's claim in full, without applying any reduction for proportional settlement (but it may deduct the excess if it hasn't already).
- To the sum to now be paid, AXA must add interest*, from the date of the initial, partial claim settlement, until the date of settlement.

- Pay Ms R £250 compensation for unnecessary distress and inconvenience.

*Interest is at a rate of 8% simple per year and paid on the amounts specified and from/to the dates stated. HM Revenue & Customs may require AXA to take off tax from this interest. If asked, it must give Ms R a certificate showing how much tax it's taken off.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms R to accept or reject my decision before 26 February 2026.

Michelle Henderson
Ombudsman