

## **The complaint**

Mr and Mrs B complain about the way AXA Insurance UK Plc (“AXA”) dealt with a claim for subsidence damage under their commercial landlord insurance policy.

For the avoidance of doubt, any reference to AXA includes their agents.

## **What happened**

The background of this complaint is well known to the parties, so the following is intended as a summary of key events only.

Mr and Mrs B held a commercial landlord insurance policy underwritten by AXA. They originally contacted AXA in October 2021 to raise a claim after noticing cracking at the property. Ultimately, Mr and Mrs B felt that AXA weren’t handling the claim fairly and were delaying the claim process and repairs. They raised a complaint which was referred to this Service.

A previous Ombudsman issued a final decision in May 2025 which considered events up until 31 December 2023. The Ombudsman said anything that had happened since then would need to be raised as a new complaint. Since, then Mr and Mrs B remained unhappy with how AXA were dealing with the claim and raised several new complaints, which AXA responded to on 3 September 2024, 24 September 2024, and 15 January 2025. They brought the complaint to this Service on 30 January 2025 and said AXA’s responses failed to address what Mr and Mrs B saw as serious technical failings and mismanagement.

Mr and Mrs B said the claim had been repeatedly passed between different parties without meaningful progress, and that despite being told in May 2024 that the property was stable and could move to settlement, no follow up or repair plan was ever received. Mr and Mrs B also said that the monitoring should have been conclusive earlier because AXA’s own arboriculture report from May 2023 had identified vegetation as the cause of movement and that continuing to monitor beyond this point was unnecessary and prolonged the claim.

Mr and Mrs B said their complaint focused on the delay in involving a suitably qualified subsidence engineer and the subsequent unreliable data issues were significant failings, not minor errors. Mr and Mrs B also outlined that they did not want the Ombudsman Service to make any findings in relation to the issues contained in the January 2025 final response from AXA as they said it related to ongoing matters and would be the subject of a separate complaint if and when necessary.

Mr and Mrs B asked for an Ombudsman to consider the complaint and to award a higher compensation award to reflect the time and stress involved in concluding the claim. I then issued a provisional decision on the complaint, and I said the following:

*“I should explain from the start that I’ve intentionally summarised the background to this complaint as both parties are aware of it. This means I haven’t commented on every point raised and instead, I’ve focussed on what I consider to be the key points that I need to think about in order to reach a fair and reasonable conclusion. This reflects the informal nature of this Service and our key function; to resolve disputes*

quickly, and with minimum formality. However, I want to assure both parties I've read and considered everything provided.

I also need to set out what period I will be considering as part of this specific decision. Mr and Mrs B have asked the Ombudsman Service not to consider any complaint points that are included in the final response AXA issued in January 2025. This is because they say it relates to ongoing matters and would be the subject of a separate complaint if and when necessary. That means I will focus my decision here on events between December 2023 and September 2024. The crux of the complaint during that period is delays in the level monitoring and the appointment of a subsidence expert. Mr and Mrs B have asked for a claim direction as they say nothing meaningful has been proposed.

While I understand and naturally sympathise with Mr and Mrs B's frustrations over the length of time this claim has been ongoing, I can't simply ask AXA to reach a settlement or produce the scope of works where important steps remain outstanding. AXA has explained that further assessment is required once the vegetation issue has been dealt with, and I think that's reasonable in the circumstances. As such, my decision here is focused on delays between December 2023 and September 2024. What I've seen, I think AXA could have handled parts of the claim better.

I've carefully considered Mr and Mrs B's submissions around the monitoring system, and I appreciate that they feel very strongly that the readings taken in 2023 and 2024 weren't reliable. However, based on the information I have considered, I'm not persuaded it can be demonstrated that the monitoring process was fundamentally flawed. I've also considered Mr and Mrs B's point that AXA should have instructed a specific subsidence specialist earlier on. I appreciate why they feel this was a significant failure but based on the evidence I've seen I don't think AXA acted unreasonably here.

There's nothing I've seen in the policy wording that required AXA to appoint a specific type of expert. And in this case, while one monitoring error was identified and corrected, there's nothing I've seen that demonstrates the monitoring itself was so defective that the readings couldn't be used at all. As such, I consider that the key issue isn't the monitoring itself, but the delay in acting on the information AXA had about the likely cause of the subsidence.

I also find that the level of communication Mr and Mrs B received wasn't reasonable in the circumstances. They were told to expect updates which didn't arrive, and then they had to deal with several handovers between different contractors that would have caused further inconvenience. I think this would have made it difficult for them to understand how the claim was progressing and what the next steps would be. Overall, I don't think AXA managed the claim as well as they should have; and that would have added to Mr and Mrs B's frustration at a time when they were already dealing with a long running subsidence problem.

Taking everything into account, I'm satisfied that AXA's delays and poor communication would have caused Mr and Mrs B inconvenience, worry, and unnecessary effort over an extended period. That means I'm satisfied an award of compensation is appropriate here to reflect the impact AXA's actions had.

### **What was the impact**

I should start by explaining that a compensation award isn't intended to fine or punish a business, it's to recognise the impact a business' actions have had on their

*customer in a particular complaint. I should also highlight that while Mr and Mrs B have set out that the cost of employing a secretary to deal with this complaint would have been many times more than the recommended compensation, this Service does not make specific awards for someone's time, or calculate it using a set amount, like an hourly wage. Instead, this Service's approach to compensation awards requires me to think about what amount would be fair by taking into account how I consider Mr and Mrs B were affected.*

*I've thought about the impact to Mr and Mrs B for the period I am considering, and I think AXA's handling of the claim would have caused some additional distress, upset and worry, as well as disruption to daily life over a prolonged period, with the impact felt over many months. I can also appreciate that the earlier issues, while not something I can make a finding on in this decision, would have added to the current problems and highlighted the cumulative effect. The Investigator recommended a further £300 compensation, and I can see that AXA has agreed with the Investigator to pay that additional sum, on top of the compensation already offered. But having thought about the ongoing impact, I'm minded to increase the Investigator's recommended compensation amount from £300 to £550, for a total of £850.*

*I appreciate this may not be the level of compensation Mr and Mrs B had hoped for, and it may not ultimately change matters for them, given the ongoing concerns over the claim itself. But I'm satisfied this sum reflects the impact AXA's actions had on Mr and Mrs B when trying to progress and finalise this claim and produces a fair outcome in this particular complaint.*

### **Putting things right**

*As I explained earlier, I'm not considering the issues that Mr and Mrs B raised that AXA responded to in their final response in January 2025. And I'm not directing AXA how to settle the subsidence claim itself, given the outstanding issues that need to be finalised, such as the vegetation issue and further assessment that will be needed once that's resolved.*

*But in respect of the period that I have considered as part of this decision I do think that AXA acted unfairly and should therefore pay a total compensation payment of £850. And while I am not directing AXA on how to settle the claim, I do think it would be good industry practice for them to set out in writing a clear plan for the next steps in the claim and keep Mr and Mrs B updated in line with that plan going forwards in order to avoid further confusion and frustration.*

*Should Mr and Mrs B wish to have this Service consider the issues in the January 2025 final response, they should let us know so that a separate complaint can be set up to look at the underinsurance and resolution of the claim in respect of AXA appointing a surveyor's report."*

I concluded that I intended to uphold the complaint in part and to direct AXA to pay Mr and Mrs B £850 compensation for distress and inconvenience for the period I had considered. I invited both parties to respond to my provisional findings.

AXA responded and said they were in agreement to increase the compensation to a total of £850. Mr and Mrs B also provided a detailed reply and said the following:

- The claim had still not progressed despite being told in May 2024 that the property was stable and could move to settlement.
- They repeatedly chased AXA for updates, but no clear plan was provided.
- They disagreed that only one monitoring error occurred and said there were multiple

- errors and therefore the monitoring data was unreliable.
- They said an external specialist confirmed the earlier readings were “non-effectual”.
- AXA’s May 2023 report clearly identified vegetation as the cause of movement, and therefore continuing to monitor into 2024 and 2025 was unnecessary.
- A report from July 2024 identified that further investigation was needed and stabilization may not be possible.
- Structural movement has worsened since then and the property remains at risk of collapse.
- Delays have increased labour and material costs and caused issues with business operations in using parts of the premises.
- The proposed £850 compensation was unfair and should be amended to account for real-world costs and inflation to reflect the length of the claim and AXA’s failings.

As both parties have now had an opportunity to provide a response, I will set out my final decision below.

### **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.

I’ve considered Mr and Mrs B’s additional submissions carefully, but having done so, I have maintained the same outcome I did in my provisional findings. I appreciate Mr and Mrs B will be disappointed by this – so, I’ll explain why.

First, I want to explain what I will be considering under my decision. As I explained in my provisional findings, I’m only considering AXA’s actions between December 2023 and September 2024, when the delays occurred that Mr and Mrs B raised in their complaints. I’m not deciding how AXA should now settle the subsidence claim itself, or the issues raised in AXA’s January 2025 final response, because those matters remain ongoing and would need to be looked at separately if Mr and Mrs B want this Service to do so.

I have considered Mr and Mrs B’s further submissions carefully, and I understand how strongly they feel about the length of time the claim has taken, the impact on their business, and their concerns about the structural condition of their property. But those submissions do not change my view on the issues I can fairly decide as part of this specific complaint. Much of the submissions focus on matters I have set out my provisional findings on with no new evidence for me to consider. I appreciate Mr and Mrs B believe multiple monitoring errors occurred and that a loss adjuster confirmed earlier readings were not effective. But I haven’t seen any independent technical evidence that shows the monitoring was fundamentally unreliable, or that AXA acted unreasonably in the professionals they appointed.

As the complaint currently stands, AXA accepts there was an error which was corrected, and there’s nothing further I’ve seen that persuades me it would be fair to disregard the monitoring entirely. I’ve also noted what Mr and Mrs B have said about the recent subsidence report and the possibility of further structural movement, or even demolition. I sincerely recognise this will be worrying for them, but those points relate to the ongoing assessment of the subsidence claim itself, and not the service issues I’ve decided here as part of this complaint. So, while I understand their concerns, they don’t change my findings about AXA’s delays and communication during the period I can consider.

This is also relevant in respect of Mr and Mrs B’s comments around increased labour and material costs, and the effect on their business operations. These issues relate to the consequences of the subsidence claim itself and how the claim is ultimately going to be

settled. They don't relate to AXA's service in handling the claim between December 2023 and September 2024. As such having thought about the reply carefully, I'm not persuaded there's anything further that means I should change the outcome I reached in my provisional findings. I maintain the AXA failed to manage the handovers and updates during this. As well as they should have, and I think that caused Mr and Mrs B additional distress, inconvenience, and uncertainty at a time when the claim had already been ongoing for several years.

For those reasons, I'm satisfied that compensation of £850 is fair and reasonable for the impact AXA's actions had during the period I've considered. And while I've considered Mr and Mrs B's comments around increasing the award, this service does not make awards using business costs, inflation, or hourly rates. It's also important to note that this Service doesn't punish or fine a business, and our compensation awards are intended to reflect the impact a business's actions had on their customer. Ultimately, while I recognise that AXA's handling of this claim clearly fell short, and there are instances of them causing distress, upset and worry, the period I've considered is between December 2023 to September 2024.

I appreciate this is not the level of compensation Mr and Mrs B had hoped for, and it may not ultimately change matters for them considering the ongoing concerns over the claim. But in relation to the issues I think AXA are responsible for, during the period I have considered, I find the compensation award I have outlined to be in line with the level of compensation appropriate to these issues, and I'm satisfied this produces a fair and reasonable outcome in this particular complaint.

### **My final decision**

For the reasons I have given above, my final decision is that I uphold this complaint in part. I direct AXA Insurance UK Plc to:

- Pay Mr and Mrs B £850 compensation for distress and inconvenience, less any sums already raised.
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Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B and Mrs B to accept or reject my decision before 30 December 2025.

Stephen Howard

**Ombudsman**