

The complaint

A complaint has been made on behalf of Ms S, that AXIS Specialty Europe SE (“AXIS”) unfairly reduced the settlement amount for a claim made under her building insurance policy.

Ms S has been represented in this complaint by a third party. For ease I’ll refer only to Ms S throughout this decision.

What happened

Ms S took out a building insurance policy for an unoccupied property in March 2023, through her broker. The property required adaptation for Ms S before it could be occupied.

In January 2024, Ms S made a claim when the property was damaged by an escape of water. AXIS accepted the claim but said the property was underinsured, as the cost of rebuilding it was £2,444,000 but it had been insured for only £1,200,000. So it informed Ms S that it would proportionately reduce the settlement amount under the claim, in line with its policy terms.

A complaint was then made, that AXIS hadn’t calculated the rebuild figure correctly as it had included costs that weren’t considered part of the “Buildings” in the policy terms, and that the information it had provided at the time the policy was taken out was insufficient regarding what was to be included when providing a figure for the buildings sum insured, or how this should be worked out.

In its response to the complaint, AXIS said the declared buildings sum insured was inadequate for reinstatement purposes, so it was entitled to apply the Condition of Average clause in the policy. It explained the method of calculation of the Value At Risk figure and said that other aspects of the complaint were for the broker.

AXIS’s response was not accepted. So the complaint was referred to the Financial Ombudsman Service for an independent review. Our Investigator considered it and recommended AXIS settle the claim in full as it hadn’t been able to show it was entitled to make any reduction. AXIS didn’t agree, so the complaint has now come to me for an Ombudsman’s 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.

As this is an informal service, I’m not going to respond here to every point raised or comment on every piece of evidence Ms S and AXIS have provided. Instead, I’ve focused on those I consider to be key or central to the issue in dispute. But I would like to reassure both parties that I have considered everything submitted. And having done so, I’m upholding this complaint. I’ll explain why.

The insurance industry regulator, the Financial Conduct Authority (FCA), has set out rules

and guidance about how insurers should handle claims. These are contained in the 'Insurance: Conduct of Business Sourcebook' (ICOBS). ICOBS 8.1 says an insurer must handle claims promptly and fairly; provide reasonable guidance to help a policyholder make a claim and give appropriate information on its progress; and not unreasonably reject a claim. It should also settle claims promptly once settlement terms are agreed. I've kept this in mind while considering this complaint together with what I consider to be fair and reasonable in all the circumstances.

And from what I've seen, I'm satisfied the rebuild cost declared was inadequate when the policy was taken out. I say this because the evidence shows the sum insured was given as £1.2 million whilst AXIS says this should have been at least £2.4 million, as this would've been the cost to rebuild the property.

But whilst the figure given by AXIS was supported by its expert report, this figure was then revised so that it reflected the rebuild cost at the time the policy was taken out. This confirmed that the property was underinsured but that it would've cost £2.2 million to rebuild.

So AXIS has been able to demonstrate, in my view, that the property was underinsured.

I've checked Ms S's policy which contains the following clause:

"If you are underinsured, which means the cost of rebuilding the buildings at the time of loss or damage is more than your sum insured for the buildings, then we will only pay a proportion of the claim. For example if your sum insured only covers one half of the cost of rebuilding the buildings, we will only pay one half of the cost of repair or replacement."

Whilst this gives AXIS the right to proportionately settle the claim, I'd only consider it fair for AXIS to do so in line with the above policy term if this would have left Ms S in a more favourable position than if AXIS had applied the remedies available to it under general insurance misrepresentation principles. In deciding this, I've considered whether AXIS has shown that the answer given about the sum insured was unreasonable. And what it would have done differently had the correct sum insured been provided.

As I've explained, I think AXIS has been able to show that the sum insured was unreasonable. But it hasn't shown that it's calculated the proportionate reduction using the revised sum insured of £2,275,700. Or that it's calculated the reduction in line with the formula I'd expect it to have used, which is $(\text{premium paid} / \text{correct premium}) \times \text{loss} = \text{claim sum payable}$.

Our Investigator told AXIS that it would need to provide persuasive underwriting evidence to show that it would've charged more for the policy if the higher sum insured had been declared. It hasn't been able to provide such evidence, so even though it has said it would've charged more, I don't think it's fair for AXIS to take any action to reduce the settlement amount because I haven't seen the underwriting guidance to support what it's said.

In the circumstances therefore, I'll require AXIS to settle Ms S's claim in full, with interest.

Putting things right

AXIS Specialty Europe SE should settle Ms S's claim in full without making a proportionate reduction to the settlement amount.

It should also add to the settlement amount 8% simple interest per annum from the date the reduced amount was offered until the date of settlement.

My final decision

My final decision is that I uphold this complaint and I direct AXIS Specialty Europe SE to put things right as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms S to accept or reject my decision before 5 May 2026.

Ifrah Malik
Ombudsman