

## **complaint**

A company which I'll refer to as "B", complains that AXA Insurance UK Plc ("AXA") has declined a claim made against its commercial property insurance policy.

Mr S is a director of B and brings the complaint on B's behalf.

## **background**

B owned a property comprised of a large detached house which was used for offices and some outbuildings, including a large double-storey stable block. In September 2017, there was a fire in the stable which caused extensive damage. It was concluded that the fire was caused by intruders, so B made a claim against its property insurance with AXA.

There was initially a long period where AXA wasn't provided with the information it had requested, however it ultimately decided to decline the claim. AXA said that the stable wasn't covered under the policy, which only referred to offices being covered. It didn't have any original documentation about the sale of the policy confirming what was covered as the first sale took place so long ago – over 10 years ago, and there is some suggestion that the original policy was inceptioned in the 1990's. AXA also commented on the valuation that had been given for the property and noted that this only seemed to cover the value of the main building, not the outbuildings – which it said reinforced that the intention was only ever for the main building to be covered.

AXA also said that if this wasn't the case, there were questions over whether its conditions for unoccupied properties were met. And it said that the stable block was derelict in any case, meaning it had no intrinsic value – and therefore it didn't need to make any payment towards this claim. It referred to some planning applications that B had made to change the use of the land, which included having the stable block demolished. So it concluded that B hadn't insured the property as it believed its intention was to keep costs down while it waited for the conclusion of the planning application.

B disagrees with AXA's conclusions and says it always intended to insure the entire property, including the stable block, which was once used as offices and storage. And it has stated that it will discuss the issue of whether the property was undervalued at a later date once the issue of liability is concluded. It disagrees that the building was derelict, although agrees it hasn't been used in some years and it had allowed vegetation to grow around the property.

Our investigator thought the complaint should be upheld. In short, he said that the wording of the policy suggested the stable block was insured as an outbuilding and so he thought AXA should consider the claim in line with the remaining terms of the policy. He also commented that he didn't think the proposed demolition of the outbuilding was a reason for AXA to refuse to accept the claim.

AXA didn't agree with our investigator, so the complaint has been passed to me to decide.

## **my findings**

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 I have reached a similar conclusion to that of our investigator.

Where the evidence is unclear or unavailable, as much of it is in this case, I have reached my conclusions on balance and based on what I believe to be fair and reasonable in the circumstances of this complaint.

I have considered whether I think there is cover under the policy for the barn. Unfortunately there is very little evidence in this case as neither party has been able to provide evidence of what was discussed at the point of sale. And the AXA representative who sold the policy and the representative who acted on behalf of B are both unable to give much information about this.

So I have considered the wording of the policy itself. The policy schedule gives the address of the premises to be covered. It then goes on to specify that the cover is for “office(s)” and gives a sum insured under the header “Buildings”. The policy document then specifies that “Building(s)” is defined as “*The buildings, outbuildings, extensions, and garages together with landlords’ fixtures and fittings in or on them...on the premises and extending to the public mains, but only to the extent of your responsibility*”.

The word “outbuilding” isn’t defined in the policy wording, but I think it would be fair and reasonable to consider the stable building – a building that stood close to the main property and was built of similar materials – to be an outbuilding, based on its usual meaning. And it’s clear that the stable block is on the premises insured.

AXA has stated that the stables had been scheduled for demolition, so it didn’t believe B intended to cover the building – but I haven’t seen any evidence that was the case. And, given that no planning permission had been granted at the time of the policy’s inception, on balance I don’t think the fact that B was considering demolishing the building is enough to suggest that it didn’t intend to insure the building in the intervening period.

AXA has also said that B was asked whether it intended to cover “the office risk only” however I think there are several ways that could be interpreted and given that this is a commercial buildings insurance policy I don’t think it would be uncommon for the agent taking the details to check that there were no additional risks B wanted to cover. So again, on balance, I don’t think this is enough to suggest that B didn’t intend to cover the stables when taking out the policy.

I have also considered whether the use of the word “office(s)” in the policy schedule suggests that it was only the main house that B intended to cover – but I don’t consider that to be the case. The policy specifically states that buildings cover includes outbuildings, so I’m not satisfied that the schedule needed to include additional wording to ensure the outbuilding, in this case the stable block, was covered under the policy.

There is no dispute that a fire occurred and that it’s an insured peril under the policy, so I haven’t considered that aspect of the policy further.

AXA has also said that it believes the stables had no intrinsic value – but I haven’t seen any evidence to support that position. AXA has stated that it’s likely that, as the stables were derelict, they didn’t add any value to property. However I would expect AXA to provide evidence to support its position if it intended to rely on that position.

AXA has raised other concerns as part of the claim and I have seen reference to arguments relating to misrepresentation of risk, the value of the stable block, underinsurance and a

breach of a policy condition. However at this time, AXA has declined the claim on the basis that it doesn't believe the stable block was insured under the policy so hasn't taken steps to investigate the remaining areas of concern. As AXA hasn't investigated those areas yet, I haven't commented on them further here.

So, taking everything into account, I'm not satisfied that AXA has acted fairly in declining the claim on the basis that the stable blocks weren't insured under the policy. So I think AXA should reconsider the claim under the remaining terms of the policy.

### **my final decision**

My final decision is that I uphold this complaint. AXA Insurance UK Plc should put things right by reconsidering the claim under the remaining terms of the policy.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S on behalf of B to accept or reject my decision before 3 April 2021.

Sara Falzon  
**ombudsman**