

complaint

Mr L complains about how AXA Insurance UK Plc (“AXA”) handled a claim made against his home insurance policy.

background

In 2015, a heating engineer, carrying out a regular service at Mr L’s home, caused a significant amount (several hundred litres) of oil to escape into the ground around Mr L’s home and annexed property. Mr L made a claim against his home insurance policy with AXA for the damage caused to his property. However, the engineer’s insurer, which I will refer to as “D” in this decision for ease, has accepted Mr L’s claim and has been dealing with the repairs to Mr L’s home rather than AXA.

On 10 March 2017 an ombudsman from this service issued a final decision on the handling of that matter to that date. She said that AXA should put things right in a variety of ways including taking on liability for finishing the repairs and/or liability for completed work (carried out by D).

Following the final decision, Mr L and AXA agreed that D would continue to manage the repairs to the property for ease, which included D making some cash payments to Mr L in respect of certain parts of his claim. But Mr L is unhappy with this and how his insurers have handled various new aspects of his claim. This decision relates only to the issues that have arisen after the previous final decision was issued.

Mr L’s outstanding concerns relate mainly to the method of repair and outstanding works, contamination to his land, reimbursement for his expenses and damaged contents and the premiums AXA has quoted to continue insuring the property.

On 23 December 2020 I issued a provisional decision upholding the complaint in part. In it I said that I didn’t think all the issues Mr L had raised were necessary steps in order to complete the works to his property. However, I did agree that the claim wasn’t handled well by AXA and that there were several things it needed to do in order to get things back on track.

AXA responded to my provisional decision to say that it didn’t believe I had taken account of the challenges it had encountered in taking on the claim without access to D’s file and it said that Mr L hadn’t substantiated that the additional losses he was trying to claim for were over and above those already paid by D. But it also stated that it was willing to accept what I had said. Mr L responded to say he agreed with parts of the decision but highlighted several areas he didn’t agree with.

So the complaint has been passed back 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 remain of the opinion that this complaint should be upheld.

For clarity, this decision relates only to issues that have occurred after the previous final decision in 2017. I will not be commenting on or considering any issues which have already been considered under the previous complaint.

In this complaint, there are several issues where there are conflicting opinions about what has happened. Where that's the case, I've based my conclusions on what I believe to be the most likely thing to have happened. Mr L has also raised concerns about whether we should have informed him to provide additional evidence to AXA in support of his claim. But this service wouldn't handle the claim on behalf of either party or tell Mr L what evidence to provide to AXA – our role is to review what's happened and reach a decision on the complaint that we believe to be fair and reasonable in the circumstances of the complaint.

In my provisional decision, I outlined that I thought both parties could have done more to progress the claim faster than they have. I said that AXA should have done more to investigate the issues Mr L raised in 2018 and establish the condition of the property at that stage. And I thought that Mr L could have done more to ensure he was assisting with the ongoing claim – for example by providing AXA with the contamination report he'd had carried out and entering into correspondence with D when it contacted him.

Both parties responded to my decision to say they disagreed with this. AXA didn't think I'd taken account of how difficult taking on liability for the claim had been for it, given that D wasn't forthcoming with its claims file. And Mr L didn't agree that he hadn't co-operated with AXA and D during the claim.

However after reviewing the information I have on file and the responses received from AXA and Mr L, I remain of the opinion that both parties could have done more to progress the claim faster than they did.

Mr L made AXA aware that he had concerns about the property in 2018 and I'm aware it contacted D in relation to this. However, when it became apparent that D wasn't going to be cooperative, I think it would have been fair and reasonable for AXA to take proactive steps to identify the extent of the outstanding issues and consider what next steps were required to get Mr L back into his home as soon as possible. And I think its failure to take proactive steps caused a delay.

However, I also have to consider Mr L's actions. It is for Mr L to evidence that he has a claim under his policy and provide evidence of his losses. While Mr L was corresponding with AXA and D both directly and through a solicitor at different points during the claim, I think there were times where he was asked for information which he didn't provide – and that then caused a delay to the progress of his claim. For example AXA asked him to provide a spreadsheet with a list of outstanding issues in order for it to ensure they had been considered and address, but that information wasn't forthcoming.

Mr L has raised a number of issues as part of his complaint, and I have addressed several of these below. However, due to the number of issues Mr L has raised, I have focussed on what I believe to be the central issues in this complaint.

Underpinning

In my provisional decision, I said:

“In order to rectify the damage caused to Mr L’s property, around a third of the property was underpinned and a radon barrier was installed. Mr L says he’s seen reports that suggest the partial underpinning of the property may give rise to a small risk of differential movement, which would mean that he may have to make a further subsidence claim should this happen in the future. Mr L has pointed to a report which suggests that an exoskeleton around the entire property would be the best method of repair and would prevent any issues in the future. However, as I understand it, this would be a costly option.

I am not an expert and must rely on the evidence I have to decide what I believe to be a fair outcome in the circumstances of this complaint. AXA has acknowledged that it is difficult to put Mr L back into exactly the same position he was in before the oil leak due to the issues involved in this claim. But the report suggests the risk of differential movement is small and there is currently no evidence of any movement to the property, so I don’t think AXA needs to take any further action at this time.

Mr L has suggested that there has already been movement and that there is new cracking in the property. But I haven’t seen any evidence that the cracking to the property is new and one of the reports on file suggests the cracking may have been present prior to the commencement of the works. So taking that into account, I’m not satisfied there is enough evidence to show that there is new cracking to the property which warrants further investigation.

Mr L has also raised concerns about the radon barrier that was installed, which he says will cause additional movement and will cause water to breach the flint plinth and ultimately cause damp in the property. But the engineer has commented that maintaining the vegetation around the property will be sufficient to reduce this risk and the pre-condition survey had also noted that the property was showing signs of damp prior to the oil leak. So without evidence that the radon barrier has caused a damp issue, I don’t think AXA needs to take any action in regard to this at this time.

D has previously offered to monitor the property for a period of nine months, however that period has now lapsed, and I am not aware of any new cracking or damp that AXA needs to investigate. So while I appreciate Mr L’s strength of feeling about this, I haven’t seen any evidence that the methods used to repair the property weren’t suitable or that there are outstanding issues with these that mean AXA needs to take further action at this time. Should Mr L have further concerns about these issues in the future then he would need to speak to AXA about the possibility of raising a new claim and allow it to investigate whether the issue is linked to the repairs carried out by D.

Mr L has also raised concerns that he believes shuttering should have been installed under the annexed part of the property due to the risk of contaminate at a depth of lower than one meter. But I haven’t seen any independent evidence which suggests this is necessary in the circumstances. So while I appreciate Mr L has concerns about the works carried out to his property, based on the evidence I’ve seen, I don’t think AXA needs to take any further action in respect of shuttering the annexed building.”

Mr L has responded with some concerns about the use of the word small in my provisional decision and also stating that AXA has a responsibility to return him to the same position he was in prior to the claim, regardless of the cost to AXA. I have considered Mr L’s comments in this regard.

Mr L is correct that the reports don't quantify the risk. However I have considered the comments made by the experts in the relevant reports, which suggest that while there is potential for there to be differential movement as only part of the property is underpinned, there is no evidence that this has occurred.

Both the building control inspector and the structural engineers are satisfied that the works carried out are sufficient and that there is no evidence the rest of the property needs underpinning. And while I would expect AXA to take reasonable steps to put Mr L back into the position he would have been in, had the incident not occurred, that won't be possible here due to the extensive works carried out to the property. So I have considered whether the steps taken are fair and reasonable in the circumstances and based on the reports I've seen and the lack of independent evidence of any movement to date, I remain of the opinion that AXA doesn't need to take any further steps to underpin the entire property.

Mr L has also commented on the cost aspect of these works. But while I have mentioned that it would be a costly option, that doesn't appear to be the reason that AXA aren't underpinning the rest of the property and isn't the reason for me not upholding this part of his complaint. AXA has confirmed that the reason it isn't underpinning the rest of the property is that it doesn't believe it's necessary and for the reasons outlined above, I don't think its decision to decline to carry out further underpinning is unreasonable.

current contamination

In my provisional decision, I said:

"Mr L has recently provided new evidence that there may still be oil contamination to the land, which conflicts with previous reports carried out that suggested the contamination was clear. AXA doesn't appear to have had the opportunity to consider this prior to this service reviewing Mr L's complaint. But it has now agreed to review this and take any necessary action to rectify it, if there is outstanding contamination. I think this is a fair resolution at this time and will also assist AXA in deciding whether it is appropriate for Mr L to move back to the property or whether further alternative accommodation needs to be arranged while this is rectified – however Mr L will need to allow AXA and its agents access to his property in order for this to progress."

Mr L responded to this point to say that it has been some time since any of the parties involved have commissioned a report on property contamination. And he said that he disputes that he declined a report from AXA. But my provisional decision doesn't comment on Mr L's past actions in relation to this – only that he will need to allow AXA to carry out the tests in the future. And Mr L would also like me to comment on whether AXA has protracted the management of the claim – however this is something I have considered under the heading of compensation.

So nothing Mr L has said has changed my thoughts on this element of his complaint and I remain of the opinion that AXA should do as it has already agreed to and carry out further investigations to establish whether there is any residual contamination on the land.

Mr L has also commented on shuttering around works under the Annex. However as these are works that would only need to be considered if it was found that there is still contamination on the land, I think it would be premature for me to make any direction in regard to this issue. If AXA finds that there is contamination on the land, then I would expect it to consider the appropriate next steps at that stage.

alternative accommodation

In my provisional decision, I said:

“Mr L has raised several concerns about his alternative accommodation costs not being paid. In contrast, AXA and D believe that Mr L has been paid more than he is entitled to under the terms of his policy.

While Mr L’s policy does limit the amount he can claim for alternative accommodation, some of the costs in this case have been incurred as the result of poor claims handling – and therefore, I think a fair and reasonable outcome here would be for these costs to be considered over and above the policy limit.

Mr L originally rented a reasonably priced property, however when this came up for renewal the lease was for 12 months. So Mr L decided to find an alternative property with more favourable leasing terms in anticipation of the works being completed. The second property cost £2,600 per month and Mr L ended up being there for significantly longer than expected due to the ongoing works. However it would seem that Mr L was only being reimbursed £2,000 per month for this as D considered the cost higher than were necessary. However I haven’t seen any evidence that Mr L was informed of this, despite raising concerns several times.

Had Mr L been informed, I think it’s likely he would have considered finding more cost-effective accommodation – but as he wasn’t told, he was deprived of the opportunity to do this. So I think a fair resolution would be for AXA to reimburse the additional amount that hasn’t already been reimbursed for this property for the duration he was staying there. Mr L also says he hasn’t been reimbursed for the additional costs of mileage due to living away from the property. It is for Mr L to provide evidence of his losses in this respect and I understand D has already made a payment towards this. However if Mr L believes the payment should be increased then he should explain his reasons to AXA. I have seen that Mr L has provided a rough calculation for the amount of mileage he is claiming for but I haven’t seen any explanation as to why it was necessary for both him and his wife to make daily trips to property, so Mr L would need to explain the mileage costs he is claiming for and how these were incurred.

Should Mr L provide further information or evidence to substantiate his claim then I would then expect AXA to consider these and whether the payment should be increased. However, I haven’t seen any compelling evidence showing that Mr L is out of pocket for the mileage travelled while he was in alternative accommodation at this stage.

Mr L appears to have been told around May 2018 that his property was habitable. However, I’ve seen correspondence after that date referring to Mr L’s property not having electricity and there being several outstanding issues within the property. Taking this and the contamination on the property into account, I don’t think it’s unreasonable for Mr L to have had concerns about the safety of the property and for him to have reservations about moving his family into it – and I think AXA should have done more to address those concerns as I’ve explained above. However, as I’ve also explained above, I have considered that Mr L has delayed the claim – and therefore the time taken to move back into his property.

So taking all of these issues into account, I think a fair way to resolve matters would be for AXA to cover 50% of the additional expenses Mr L has incurred as a result of living in alternative accommodation since September 2018.

As I understand it, Mr L has been staying in his father's property in an annexed building on the land since that time. So I haven't seen that Mr L has been paying any rental costs during this period. Mr L's father was originally living there and presumably paying most, if not all, the bills for the property. But Mr L's father was later moved out due to his care requirements. It isn't clear whether Mr L took on payment of essential bills for that property after his father had moved out. But if he did, then AXA should reimburse 50% of these costs.

However Mr L will need to evidence these losses and they should be limited to essential household bills that have been incurred over and above the costs Mr L would have incurred had he been living in his home – for example if he has had to make two council tax payments each month.

Mr L has also raised concerns that he hasn't been able to rent his property out during this period so has lost out on rental income. But I can't see this is an issue he has raised with AXA, so it doesn't seem it has been considered. If Mr L would like AXA to consider these costs then he should raise them separately with AXA. As with any claim, he would be expected to provide evidence of his losses (not just a breakdown of the amount he believes he has lost out on).

And Mr L has said that he installed a site office while the works have been ongoing and believes that AXA should remove this. However I can't see that this is an issue that Mr L ever raised with AXA or that it agreed to pay these costs. In the first instance, Mr L would need to raise this issue with AXA and allow it to consider whether this cost is covered under the policy."

Mr L's response to my findings on alternative accommodation was that he felt there was inequity in my provisional decision. In summary he says it's unfair that I have only penalised AXA £1,500 for its failures but have penalised him 50% of his alternative accommodation expenditure. However we don't penalise either party and these amounts are in relation to different elements of the complaint. The £1,500 compensation isn't a penalty and is to reflect the distress and inconvenience caused to him as a result of AXA's actions. The alternative accommodation costs are based on what I believe to be a fair and reasonable reflection of the delays caused by AXA, which have led to Mr L incurring further alternative accommodation costs.

As Mr L is aware, D has already paid an amount for alternative accommodation and AXA believes he has already been paid an amount totalling at least the full policy limit for the section of cover. However, I don't think AXA did everything it should've to progress the claim, which has caused delays in getting Mr L's property back to a habitable state. And therefore I think it would be fair and reasonable for AXA to make a contribution to the costs Mr L has incurred over and above the policy limit.

However, I also have to take into account that Mr L has contributed to this delay as I have explained above. I appreciate that Mr L doesn't agree on this point however from the correspondence I have seen, I think there were times where Mr L also delayed matters and didn't provide AXA with information it had reasonably requested, such as a spreadsheet of all the outstanding costs and evidence of those so it could consider these and finalise the claim.

I do appreciate that Mr L and his family were in a difficult situation and that Mr L may not have always been in a position to reply straight away. But it is for Mr L to show he has a claim under the policy and evidence his losses. And as I think Mr L hasn't always provided AXA with the information it needed to progress the claim, I don't think it would be fair and reasonable to ask AXA to cover the costs that were being incurred while it wasn't able to progress the claim.

So taking all of that into account, I remain of the opinion that AXA should cover 50% of the additional expenses Mr L incurred as a result of living in alternative accommodation since September 2018.

Mr L responded to provide further details about the mileage costs he says he incurred and the reasons for this. However these will need to be raised directly with AXA to consider, along with any evidence Mr L has for these costs. As a payment has already been made by D for some of these costs, I would then expect AXA to consider whether any additional payment is due.

Mr L has also raised that he believes AXA is liable for paying the rent at his alternative accommodation while living with his father at an agreed market rate, regardless of its ownership. However Mr L's policy states that it will cover additional costs of alternative accommodation and as these costs are over and above his policy limit, I have considered what I believe to be fair and reasonable in these circumstances. And having done so, I don't think it would be fair to ask AXA to pay costs that weren't incurred by Mr L for living in his father's property while he was also living there. Mr L hasn't provided sufficient evidence of additional costs during that period, so I'm not satisfied that he has evidenced that he is out of pocket for that period.

However, if Mr L provides AXA with evidence of having paid additional costs for the period when Mr L's father was living at his property with Mr L's family then I would expect AXA to consider them or consider whether a daily allowance should be given to assist with Mr L's living costs. However it would be for Mr L to evidence those costs to AXA in the first instance.

I have also considered Mr L's comments regarding rental income for his annex, which he feels AXA should be liable for. However as Mr L has acknowledged, his policy doesn't cover loss of rental income, so I don't see any reason to ask AXA to take on responsibility for those losses as Mr L has no cover for them under his policy.

Mr L has also stated that he raised the office removal costs with one of AXA's agents and hasn't received a response. I note that Mr L would like AXA to cover these costs, however I can't see that it has considered this point or provided a formal response to this part of the claim. So Mr L will need to provide AXA with evidence of any office removal costs, such as quotes or invoices. AXA should then consider these costs and provide Mr L with a response.

Lastly, Mr L has stated that he hasn't been reimbursed for his moving costs. I can see this issue was addressed in the previous final decision for previous moving costs, so I won't be revisiting that issue again here. But if there are any further moving costs after the previous decision, for example when Mr L and his family moved into his father's property then AXA should now consider these.

Storage costs

In my provisional decision, I said:

“It is my understanding that D agreed to pay for storage costs until earlier this year, following which these costs went unpaid and Mr L was pursued for them. Mr L says he was unable to move his belongings back to the property as the works were incomplete and there was a vermin infestation. Having spoken to AXA it seems it has agreed to pay these costs to prevent Mr L’s belongings being destroyed but that Mr L hasn’t taken it up on that offer.

AXA should continue paying the storage costs until it has established whether the property is habitable in the opinion of its specialist. Once the property is confirmed to be habitable as discussed below, I have seen that D has offered to pay reasonable moving costs. However if it fails to do this then AXA should step in and pay any reasonable costs incurred in retrieving the items.”

Both Mr L and AXA appear to have accepted my findings on this matter, so I see no reason to change my findings and won’t comment on this aspect of the complaint further.

Legal costs

In my provisional decision, I said:

“D suggested Mr L correspond with it via a solicitor and Mr L says some of these costs haven’t been reimbursed.

Mr L does have legal expenses cover under his policy, however this part of his cover isn’t provided by AXA. And I can’t see that AXA has ever agreed to reimburse Mr L for any legal fees he’s incurred or asked Mr L to instruct a solicitor to deal with his claim. So while I understand that D may have asked Mr L to use a solicitor, I don’t think these costs are covered under the policy with AXA and I don’t think it would be fair to hold it responsible for costs incurred that it didn’t agree to.

Mr L has later instructed his own legal representative. As it was his choice to do that, I don’t think AXA needs to reimburse any of those costs.”

Mr L has replied with a further point that he has incurred legal costs in defence of action taken by D in relation to his storage costs. Mr L states that there is a causal link between AXA’s actions in failing to provide a habitable home and Mr L having to incur legal costs to defend his position.

However as I outlined in my provisional decision, Mr L’s legal expenses cover isn’t with AXA and it didn’t require him to use legal representation to liaise with it – those were the actions of D. So I don’t think it would be fair and reasonable to ask AXA to pay for any legal costs Mr L has incurred in dealing with D.

I am aware D asked Mr L to correspond using a solicitor, however as that wasn’t AXA’s decision, I don’t think it would be fair or reasonable to hold AXA responsible for those costs.

Sign-off documents

In my provisional decision I said:

“Mr L has repeatedly asked to see copies of these and, while he has been sent excerpts of the report, he hasn’t been sent the full report. I understand that the full report was over 200 pages in length and that it was carried out by D, but Mr L has genuine concerns about the safety of his property and is simply asking for some reassurance that his property is now safe for his family to move back into.

This claim has been handled poorly, particularly by D. But as AXA’s customer, I would expect it to work with Mr L to ensure that his concerns are answered and that his mind is put at ease as much as possible. And I don’t think asking for a copy of the sign-off documents is unreasonable given the significant size of the claim and background to it. So if AXA is unable to provide Mr L with any further information relating to the sign-off of this work then I would expect it to arrange its own report so it can satisfy both itself and Mr L that the works have been carried out to a reasonable standard as far as it can tell.

Mr L has requested “as built” reports but I don’t think it’s reasonable to ask AXA to provide these in order to satisfy the claim. I say this because AXA didn’t carry out the works and I haven’t seen any evidence to show that this report is necessary in order to show that the works have been completed to the required standard. So I don’t think it needs to provide additional reports that aren’t directly relevant to whether the repairs have been completed to a reasonable standard.”

Mr L responded stating that AXA should have obtained the “as built” report from D and as it has failed to do this, it should now arrange a non-intrusive ground survey to produce a report on construction and the location of site services. I have considered Mr L’s comments in regard to this, however I haven’t been provided with any evidence to show that this is a necessary requirement to evidence that the works have been completed to the standard required, so I won’t be asking AXA to carry out this survey at its own cost. However, as AXA has already agreed to have a report carried out in order to progress the claim, Mr L can speak to AXA directly about whether it would be possible to include this information, which AXA may be able to provide at its own discretion.

Mr L has requested that if a further report is required to provide sign off documentation, that this is carried out by the original agent who carried out the pre-work property inspection. But that would be for AXA and Mr L to discuss and agree on as this isn’t something AXA has had the opportunity to consider at this point. And as I can’t guarantee the suitability or availability of any particular agent, I won’t be directing AXA to appoint this particular agent.

Outstanding work and contents

In my provisional decision, I said:

“Mr L says there are wires exposed in the kitchen, a heavy radiator hasn’t been fixed back to the wall and there is currently a rodent infestation in the property, all of which are preventing him moving his family back into their home.

I haven’t seen any evidence that AXA has taken any action to rectify these issues despite having been aware of them for some time now. Mr L was told he could move back into his property in May 2018, but these issues have prevented him from doing that. While these may seem like minor issues, Mr L has made AXA aware of his financial troubles as a result of this claim so I would expect AXA to take action and ensure that these works are carried out to Mr L’s property as soon as possible. I have commented on how AXA should put this

right below. AXA should also arrange for exterminators to visit the property shortly before the property is ready for Mr L to inhabit.

Mr L also says the infestation of vermin has caused damage to contents in the property and that hasn't been dealt with. AXA hasn't considered this as D has been managing the claim and it's unclear what items were left in the property that have been damaged or why these were not placed in storage. Mr L will need to provide evidence of his losses. Should he do that, AXA should reconsider this issue. However at this time, Mr L hasn't provided AXA with enough information for it to assess this part of his claim.

In order to ensure that the outstanding issues are rectified, I think AXA should arrange for an independent expert to carry out a site visit as explained below. AXA should then carry out and works or reimburse any items as suggested by the independent expert. The investigator suggested that this should be done within 14 days of this complaint being settled, but I'm aware this may not be possible due to current events. However Mr L has made me aware that he is likely to have to sell the annexed property that he and his family are residing in, so he is likely to be made homeless soon. As such, AXA should pay for the costs of alternative accommodation incurred and evidenced by Mr L until any outstanding issues with the building identified by the expert have been rectified."

Mr L has mainly agreed with the provisional decision but has raised some additional points. He says that it was a contractor who pointed out that there is a rodent problem. And he also says that the property has suffered from a damp issue due to the lack of a damp-proof membrane and that he would like me to also recommend that the damaged contents is removed and a deep clean executed.

However these comments don't change my findings on the outstanding work and contents. I say this because I have recommended that an inspection is carried out. And, as AXA hasn't yet received the report on the extent of the outstanding damage, I can't comment on what should happen as the result of that report. However if the report identifies that items need to be removed and that a deep clean is necessary then I would expect AXA to take these items into account. Mr L says he has documented his losses so I would suggest that he provides that information to both AXA and the independent expert to consider.

Mr L has also raised concerns about the number of contractors who have entered his property and approached D about this, who he says agreed to replace door and window locks. While I can appreciate that Mr L is concerned about the security of his property, I haven't seen anything to confirm whether it would be necessary to change all the locks on the property or whether just door locks would be sufficient. So, as AXA doesn't appear have reached a decision on this point, I think it should reconsider whether it can cover the cost of replacement locks and if it is unsure, request that the independent expert include this in their report.

Increased premiums

In my provisional decision I said:

"Mr L has raised concerns about the premium and noted that his premiums are likely to be higher for a period of 10 years following the claim so he has stated that AXA should cover this difference. However, I haven't seen any evidence that this is something that would be covered under the terms of the policy with AXA, so it follows that I don't think AXA needs to make a payment for this.

However I note that Mr L has said he was unable to afford to renew his policy in July 2018 due to the amount of money he was owed as a result of this claim – and from the notes I have, it seems that Mr L was owed a significant amount and shortly after was reimbursed around £25,000. Because if this, I think a fair and reasonable outcome here would be to allow Mr L, if he chooses to – and upon payment of backdated premiums – to reinstate the previous policy from July 2018 and treat it as though it's never lapsed.”

For any increases in premium, Mr L would like AXA to provide him with documentation that clearly identifies the reasons for the increased risk. However, information about how AXA assesses risk would generally be considered to be commercially sensitive information so I don't think it would be fair and reasonable to tell AXA to disclose it.

However, if Mr L requires this information in the course of pursuing action against third parties then he can speak to AXA directly and I would expect it to consider whether there is any information it can share with him, even if this is in general terms, about the reasons for any increase in his premiums. However I won't be making any directions on this matter.

Compensation

In my provisional decision I said:

“The events of the last few years and the fact that, in Mr L's opinion, the property remains unfinished, has undoubtedly caused a significant amount of distress and inconvenience. I realise that this claim has been challenging for AXA as it hasn't always been aware of what is happening due to the fact that D has been handling it – and that it has had to rely on both Mr L and D to provide it with information, which hasn't always been forthcoming.

But even taking those challenges into account, I think AXA should have handled this claim better than it has. There appears to have been no ownership of the outstanding issues and I haven't seen any evidence that it has seriously considered or acted on any of Mr L's concerns. Mr L is clearly experiencing financial troubles and finding dealing with D challenging and I think AXA could have done more to assist with that so I think AXA should pay him £1,500 compensation for the distress and inconvenience it has caused him through its poor handling of this claim since March 2017.

I realise that Mr L believes this payment should be considerably higher than this – and I do sympathise with his situation. But I also have to take into account that many of the issues have been caused by D, rather than AXA. I have also considered the time Mr L has spent on this claim, however I must consider that the claim itself was the fault of the third-party and I am only considering whether AXA could have done more since March 2017 – and the impact of them not having handled things as well as they should have done.

For clarity, I have considered all the events starting after the last decision and up to the date of this decision when considering the compensation I believe should be awarded.”

Mr L has responded to say that AXA's actions have caused significant distress throughout the handling of the claim and shared information about how it has affected his mental health, which I have considered. He says that “the magnitude of the award against AXA is simply of the wrong order of magnitude and sends the wrong message to the insurance industry”. However when awarding compensation, I must consider the distress and inconvenience

caused to Mr L. Our role isn't to regulate or punish businesses and we don't award compensation in order to send messages to the financial industry more widely.

The compensation suggested is significant compensation, which I believe reflects the distress and inconvenience caused by AXA's poor claim handling. As Mr L has stated, AXA should have done more to progress the claim and I acknowledge that he has had to spend a significant amount of time on dealing with the claim. However I also have to consider that some of this time was due to the claim itself, which wasn't caused by AXA and due to the actions of D, who seem to have delayed matters for all the parties on occasion.

So taking everything into account, I remain of the opinion that AXA should pay Mr L a total of £1,500 compensation for the distress and inconvenience caused to him as a result of its actions and failure to manage the claim appropriately since the previous decision from this service.

interest payments

In my provisional decision, I said:

"Mr L would like me to consider adding interest payments to the alternative accommodation costs and legal costs that have already been paid and also those that are outstanding. As I've explained, I haven't reconsidered anything that was considered as part of the previous decision and had the previous ombudsman intended to add an interest award then she would have done so – therefore I won't be awarding retrospective interest. And many of the previous payments were made by D so any delays in paying them would have been due to its error, rather than AXA's error so I don't think it would be fair to ask AXA to pay interest on those payments.

However I have considered interest payments on the amounts awarded below where I believe Mr L has been deprived of funds for a period of time."

Neither party has raised any concerns in relation to this part of my provisional decision, so I see no reason to depart from the outcome I reached in my provisional decision.

Putting things right

This claim has been ongoing for a long time, but it seems both parties would like to progress the matter so Mr L can move back into his home. However there remains a significant dispute over whether the property is habitable.

In order to put things right, AXA should arrange for an independent expert to carry out a site visit and assess whether there are any outstanding issues that prevent the property from being habitable. It should pick a minimum of two experts and ask Mr L to pick which one he would like to carry out the site visit. The expert should comment on:

- whether the property is habitable
- whether there are any outstanding structural issues
- whether there is any significant outstanding work that needs to take place in the property

And AXA should also instruct a relevant expert to carry out tests to confirm whether there is contamination to Mr L's home – and if there is, whether it is harmful and whether it is a new issue or part of the original claim.

In addition to the above, I think AXA should put things right by:

- Reimbursing the extra costs of around £600 per month for the period Mr L was living in the second alternative accommodation. AXA is entitled to deduct any amounts that have already been paid in respect of this item.
- Paying Mr L 50% of the essential costs incurred as a result of not residing in his own property since September 2018.
- AXA should pay simple interest at 8% a year on the two amounts above from the date each payment was made by Mr L until the date of settlement *.
- On receipt of evidence of his losses, AXA should reconsider Mr L's claims for mileage costs, office removal costs, moving costs, lock replacement costs and Mr L's contents that were damaged by vermin. It should write to Mr L with its decision on these matters once they have been reconsidered.
- Send Mr L any further sign-off documentation it is able to, or alternatively arrange a report to comment on whether the works to the property have been carried out to a reasonable standard.
- Arrange for exterminators to visit the property shortly before the property is ready for Mr L to inhabit or reimburse Mr L his reasonable costs in appointing his own contractor for this.
- Pay for the costs of alternative accommodation incurred and evidenced by Mr L until any outstanding issues with the building identified by the expert have been rectified.
- Allow Mr L, if he chooses to – and upon payment of backdated premiums – to reinstate the previous policy from July 2018 and treat it as though it's never lapsed.
- Pay Mr L £1,500 compensation to reflect the distress and inconvenience its handling of the claim has caused.

* HM Revenue & Customs may require AXA to take off tax from this interest. AXA must give Mr L a certificate showing how much tax it's taken off if he asks for one.

my final decision

For the reasons outlined above, my final decision is that I uphold this complaint. AXA Insurance UK Plc should put things right by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 10 May 2021.

Sara Falzon
ombudsman