

## **The complaint**

Mr and Mrs C complain about delays by AXA Insurance UK Plc dealing with a subsidence claim on their buildings insurance policy.

## **What happened**

Mr and Mrs C have buildings insurance for their home with AXA. It's a joint policy but Mr C has dealt with most of the correspondence so for ease I'll refer to him.

When Mr and Mrs C made a claim on the policy, AXA appointed loss adjusters to deal with it and they looked into what was causing the problem.

In February 2023 the loss adjusters wrote to Mr C with details of the investigation and an arborist report. They recommended removal of some trees that were said to be causing subsidence.

The trees were in the neighbouring properties on either side. The neighbours were contacted and one of the neighbours agreed to trees on their land being removed but the other neighbour (who I'll call Mr T) had some concerns. He emailed in May 2023 with some questions, in particular about replacing the trees that were to be removed.

Correspondence followed but no agreement was reached for removal of the trees. Mr C was unhappy with the progress of the claim and complained.

In its final response to the complaint, AXA said Mr T had concerns about removing his trees, the loss adjusters had done their best to address his concerns, and they had made clear the limit of their liability. AXA said it wasn't responsible for any delay relating to this but offered compensation of £25 for some delay dealing with the complaint.

Mr C remained unhappy and referred the complaint to this Service.

Our investigator didn't think AXA had been responsible for any unnecessary delay in relation to removing the trees. But she said there had been some delays responding to Mr C and times when he was passed from one department to another. She recommended compensation of £250 in respect of this.

Mr C disagreed. He said communication had been very poor. And he said Mr T had not refused to have trees removed, but had asked that someone visit him to discuss the arrangements and this had not happened.

The investigator didn't change her view. She said that Mr T had refused to have the trees removed unless they were replaced and she didn't think AXA was responsible for replacing them.

As no agreement has been reached, I need to make a 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.

The relevant industry rules and guidance say insurers must deal with claims promptly and fairly, and not unreasonably reject a claim. They should settle claims promptly once settlement terms are agreed.

The policy provides cover for subsidence and there's no dispute the claim is covered. The issue I need to determine is whether AXA is responsible for delays dealing with it.

Subsidence claims often take some time to deal with. Investigations are needed to establish what is causing the problem, which can involve monitoring the property over a period of time and obtaining expert evidence.

Following investigations and after obtaining an arborist's report, the conclusion reached was that the subsidence was due to tree roots in the two neighbouring gardens. Mr C says these trees should have been removed but AXA delayed this happening.

I've looked at the sequence of events that followed the initial investigations. The main issue was addressing Mr T's concerns. He wanted the trees to be replaced with new planting.

The loss adjusters said removal of the trees would be covered but AXA would not pay for any replacement planting. I think that was reasonable. The policy covers loss or damage resulting from subsidence. I appreciate Mr C and Mr T wanted AXA to agree to plant new trees or install a fence to replace the privacy the trees offered. But the policy terms don't require AXA to pay to replace the trees or install a new fence. Its liability was limited to dealing with the subsidence.

Although Mr C said his neighbour had not refused to have trees removed, the correspondence shows Mr T had not given his permission, saying for example "*There must be NO cost for me and this is not discussable. Also there MUST be landscaping to replace the trees otherwise it is not an option.*" While I understand his concerns, AXA wasn't responsible for replacing the trees and it wouldn't be reasonable to expect it to cover the cost of replanting.

Mr T also had some concerns about the impact of the work, in particular because of some health issues his wife had and how she might be affected by dust. The arborist conducted a risk assessment and said they would be in touch with Mr T to discuss the arrangements.

In these circumstances I'm satisfied AXA took reasonable steps to investigate the claim, was willing to pay for removal of the trees that were the cause of the subsidence, and addressed the concerns raised. I don't consider there was avoidable delay in relation to this.

I do accept there was some poor communication and times when Mr T had to chase for a response. That was upsetting and caused some unnecessary inconvenience, having to spend time trying to speak to the right people to keep things moving. Thinking about the impact of this, I think a payment of £250 would be fair.

The claim was still ongoing when Mr C referred this complaint to us. In this decision I'm only considering events up to when AXA gave its final response to this complaint. He made a further complaint and I understand AXA has provided a response to that. If Mr and Mrs C are unhappy about that response they may refer it to us to consider as a fresh complaint.

**My final decision**

I uphold the complaint and direct AXA Insurance UK Plc to pay compensation to Mr and Mrs C of £250 for the distress and inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C and Mr C to accept or reject my decision before 13 August 2024.

Peter Whiteley  
**Ombudsman**