

## **The complaint**

Mr G and Mrs G complain about the handling and settlement of their buildings insurance claim by AXA XL Insurance Company UK Limited.

## **What happened**

The following is intended only as a brief summary of events. Additionally, whilst other parties have been involved in the claim and complaint process, for the sake of simplicity, I have largely just referred to Mr and Mrs G and AXA.

Mr and Mrs G held a buildings insurance policy with AXA. In November 2022, their property suffered damage caused by water leaking through the flat roof of their building. After an initial delay, seemingly caused by a third party, AXA was notified of the claim in January 2023. It was then not until June 2023 that AXA's loss adjuster visited the property to assess the damage.

At the start of August 2023, AXA declined the claim for damage to the exterior of the building, but said that it would meet the cost of repairing the interior. AXA considered the external damage was an issue of faulty workmanship, and so was excluded under the policy. But it felt the internal damage met the policy requirement of accidental damage.

Mr and Mrs G disagreed with this decision, saying the roof was previously in good condition, and felt the external damage should also be covered. However, they said that they were unable to get a report from an expert to confirm the cause of external damage, due to the delays AXA had caused in dealing with the claim. Ultimately, they complained about this. They were also unhappy that damage had been caused by asbestos testing within their property, and that AXA had limited the cover they were provided based on their being unrepaired external damage.

AXA apologised for the delays caused and for issues with communication. And offered Mr and Mrs G £250 compensation for this. But it did not change its stance on the claim.

Mr and Mrs G referred their complaint to the Ombudsman Service. Our Investigator thought AXA should pay Mr and Mrs G an additional £150 in relation to the claim handling. But she felt that the decision on the claim and limitation of cover was fair and reasonable.

As Mr and Mrs G remained unsatisfied, their complaint has been passed to me for 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.

Having done so, I have come to the same outcome as our Investigator. I'll explain why.

I have considered all of the evidence and arguments provided. But I have not commented on every individual point. This is not meant as a discourtesy, but focussing on what I consider to

be the key issues is in line with the Ombudsman Service's role as an informal dispute resolution service.

The first key issue is the claim decision on the external damage.

Mr and Mrs G's policy provides cover for damage caused by a number of reasons. One of these reasons is storm damage, and this is how the claim was initially presented. It isn't clear that there was a storm event at the time of the damage. However, the policy also contains cover in relation to accidental damage.

Accidental damage is not defined within the policy. In the absence of a definition, generally speaking, we would consider this to mean damage that is unforeseen and unintentional. The policy also contains a number of exclusions to the cover provided. These include damage caused by faulty workmanship or by wear and tear.

AXA has considered that the claim for exterior damage is not covered because there is evidence of faulty workmanship. In reaching this decision, it has relied on the inspection report produced by its loss adjuster. This said:

"Evidence of recent repairs was noted around the drainage outlets which suggests this was where the leak occurred. Upon closer inspection the installation of the roof coverings around the outlets seemed quite poor. The remaining roof coverings appeared to be undulated and blistered in places which was clearly demonstrated within the insureds own supplied photos. The roof edge and fascia's were also found to be in relatively poor condition.

... it is our considered opinion that poor installation of the felt roof coverings around the drainage outlets resulted in surface rain water permeating into the internal areas of the property. Localised repairs to the roof has since been completed by the insureds own contractors which appears to have resolved the issue."

Mr and Mrs G have disputed this reasoning. They've said that the roof covering was totally satisfactory since it had been renewed in 2016. And did not consider an issue arising after so long would be down to faulty workmanship. They've also said it was not possible to obtain a report disagreeing with AXA, due to the delay AXA had caused in dealing with the claim.

I should make it clear that the Ombudsman Service are not experts in roof construction. We have to reach our conclusions based on the evidence provided.

I note Mr and Mrs G's comments about not being able to obtain a report of their own due to delays caused by AXA. But this does not agree with my experience of reviewing complaints of this nature. Undoubtedly, the longer after the event, it might be more challenging for the inspector to come to a definitive conclusion. But I do consider that an inspection could have taken place and a conclusion could have been reached on the cause of the damage and/or issues of faulty workmanship. Additionally, I note that some, potentially temporary, repairs were carried out to the roof; but no comments from the repairer have been provided to support Mr and Mrs G's position.

As a result, I have to make my assessment based on AXA having provided a report from an expert, and Mr and Mrs G having not.

That said, I do appreciate Mr and Mrs G's comments about the roof having been functional for a number of years without apparent issue and I have considered these. However, just because something has worked for a while, does not mean that it was constructed or installed appropriately. Faulty workmanship may only come to light some time after the initial work has been done. A roof of the nature of Mr and Mrs G's will have an expected lifespan.

Faulty workmanship may only serve to shorten this rather than to exist as an identifiable problem from the outset.

Ultimately, based on the evidence provided, I am satisfied that AXA acted appropriately by relying on the opinion of the expert report it had obtained. And I am not persuaded that Mr and Mrs G have established there is any convincing reason to challenge this.

The second issue relates to the internal damage and the restriction on cover.

AXA has said that it will either arrange for or pay for the internal repairs. But it will not complete these until it is satisfied the roof has been appropriately repaired. AXA also restricted Mr and Mrs G's cover to fire, lightning, explosion, earthquake and aircraft – so called FLEEA cover.

Generally speaking, where external repairs of the nature relating to this claim are required, I consider it reasonable that an insurer not carry out internal repairs, and that cover be restricted, where there is a likelihood of further damage occurring.

There appears to be some confusion over the current state of the roof though. It is clear that some repairs were carried out. These were noted in the loss adjuster's report. But AXA has said that it is not clear whether these were temporary repairs or not. Mr and Mrs G's representative's email of 17 August 2023 says that they were able to arrange to stem the flow of water by means of a temporary repair. It isn't clear whether these repairs were then made permanent, or if these temporary repairs are those noted in the loss adjuster's report. Until permanent repairs have been completed, I consider it is fair and reasonable for AXA not to complete the internal repairs or to remove the limitation on Mr and Mrs G's cover.

And, at the point the complaint was referred to the Ombudsman Service, AXA was trying to establish this by asking for a copy of the invoice or details of the works completed to the roof. This does appear reasonable.

Once the roof has had permanent repairs, or these have been confirmed as already having happened, AXA should remove the restriction on cover and complete (or pay for) internal repairs. These repairs should be to all areas confirmed as being accidentally damaged by the ingress of water on or around 22 November 2022.

I do note that AXA carried out some testing for possible asbestos in relation to the internal damage. It seems that multiple tests were required, and the need for more than one is seemingly due to the actions of AXA's agents. It isn't clear whether these tests have produced a positive result.

I note that Mr and Mrs G are elderly, and have concerns about possible asbestos. I do not pretend to be an expert in such matters, but to provide some limited reassurance, my understanding is that asbestos was often used in artex plastering and that this does not cause an issue as long as it is not disturbed. Carrying out repairs would likely disturb the plaster, hence the need for testing. But until the repair work is done, there should be no issue. That said, I appreciate Mr and Mrs G's concern about this and AXA should provide details of the results of the tests it carried out. Repair of these test locations should take place alongside completion of other internal repair works.

The last issue is the claims process itself.

It is clear that there were issues here, including significant delays and communication issues. AXA was notified of the claim in January 2023 and took almost seven months to provide a claim decision. There does not appear to be any justifiable reason for this

timeframe. And as Mr and Mrs G have said, this delay is unacceptable. Mr and Mrs G were also not kept appropriately informed. And a number of different parties have been acting on behalf of AXA during the claim process, which – whilst not uncommon – has added to the negative experience Mr and Mrs G have had.

I have mentioned that Mr and Mrs G are elderly, and I have borne this in mind when thinking about the experience they have had. Fortunately, Mr and Mrs G have been able to remain in the property. And the level of internal damage does not appear to have significantly impacted their daily lives. But with better claim handling from AXA, I do consider that these repairs would most likely have been completed long before now. And Mr and Mrs G would have been able to fully enjoy their property as they ought to.

So, I agree with our Investigator that the £250 offered by AXA is not sufficient to compensate Mr and Mrs G for the avoidable distress and inconvenience AXA has caused them.

### **Putting things right**

AXA XL Insurance Company UK Limited should pay Mr and Mrs G £400 in compensation in total. It can deduct any sum of compensation already paid from this amount.

Once Mr and Mrs G have demonstrated that the roof has had a permanent repair, AXA XL Insurance Company UK Limited should complete (or pay for) the internal repairs – including the damage caused by asbestos testing.

AXA XL Insurance Company UK Limited should, without delay, provide Mr and Mrs G with the result of the asbestos testing to allay any concerns they have with this.

### **My final decision**

My final decision is that I uphold this complaint. AXA XL Insurance Company UK Limited should put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G and Mrs G to accept or reject my decision before 26 July 2024.

Sam Thomas  
**Ombudsman**