

The complaint

Mr D complains about AXA Insurance UK Plc (“AXA”) for its response to his claim for loss in value of his roof. Mr D wants AXA to restore his roof to its previous condition.

What happened

The background to this matter is well known to the parties so I will summarise only briefly.

Mr D owns a period home in an exposed rural location.

During storms in February 2022, Mr D’s roof was severely damaged. Tiles from the upper part of his roof fell onto a lower veranda and caused further damage.

Mr D submitted a claim to his insurer, AXA.

AXA assessed the property and declined the claim on the basis that it argued that the damage was not caused by storm but was wear and tear which was highlighted by the storm, and accidental damage to the lower roof.

Mr D complained to AXA and his complaint was not upheld.

Mr D was then without a secure roof covering so he engaged a contractor to repair his main roof.

His contractor advised him that his options were for replacement of the roof with like for like terracotta tiles, which were more difficult and time consuming to source and were more expensive, or concrete tiles which had a similar appearance, but were less expensive and more readily available.

As Mr D at that time had an open damaged roof, and was without the assistance of his insurer, Mr D elected for replacement with the concrete tiles.

Mr D complained to us. He felt that AXA’s decision to decline the claim was unfair. He obtained a surveyor’s report to support his complaint.

We considered his complaint and in February 2023 upheld his complaint, determining that AXA was wrong to decline the claims. We directed that AXA reimburse Mr D for the costs of repairs he had already incurred, the costs of his surveyor’s report, and compensation for his distress and inconvenience. We also asked AXA to consider Mr D’s evidence of loss in value as a result of his roof being replaced with a cheaper material.

Mr D provided his evidence to AXA, including an estate agent’s opinion and his survey. These considered that there would be a loss in value to his home as a consequence of the choice of material.

AXA considered this and declined to offer any further indemnity to Mr D. AXA considered that there was no loss in value, and alternatively that any loss in value was due to Mr D’s choice, rather than AXA’s actions.

Mr D returned to us to consider a further complaint about AXA's decision.

Our investigator has looked into this matter and set out his view to the parties. This was that Mr D suffered a loss in value of his home as a consequence of AXA's decision to decline his claim. The investigator recommended that AXA settle the claim for the roof in line with its policy wording, which was that AXA would repair, reinstate or replace the lost or damaged property, or would pay the full cost of repair, without discount.

Mr D accepted that view. AXA has not accepted that recommendation.

AXA acknowledges the logic of the investigator's view but considers that the choice of tile was due to Mr D, and that it was not the fault of AXA.

The matter has therefore been passed for an ombudsman 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.

I agree with the comments and logic of my colleague and his view is consistent with the earlier decision and the comments in the surveyor's report.

There is evidence that the choice of tiles, which Mr D had to make under the joint pressures of needing his home to be made weatherproof, and being without the support of his insurer, so having to privately fund the repairs, did have an impact on the value of his property.

The surveyor describes the essential character and historic fabric of the property, which was built in the mid-19th century suffering a detriment by the choice. He considered that the use of concrete tiles – which differed from the roof of the other part of the house, would diminish the value of the property by around the cost of replacement with the traditional tiles.

Mr D has also provided evidence that there is an aesthetic difference between the roofing surfaces which potential buyers may wish to correct. The estate agent considers that potential buyers may offer less for the property in order to carry out replacement of the roof themselves.

I do not accept AXA's assessment, either that there is no difference in the tiles, or that any loss in value is due to Mr D. There is evidence that in previous repairs Mr D elected to use the more expensive tiles for repair and so I think that if Mr D had been in a position to choose freely, he would have elected to have like for like replacement. He did not have a free choice because he was under the pressures of arranging and funding repairs privately and without the support of his insurer.

I therefore think that the loss which Mr D has suffered is due to AXA's decision to decline the claim, which we have previously determined was wrong. This wrong decision placed constraints on Mr D, which caused him to make a choice which resulted in a loss of value for him.

I think that AXA should compensate him for this.

I recognise that it is difficult to assess a loss in value on a property, and that values are imprecise and unfixed.

I do, however, agree that Mr D has suffered a loss, and that loss is of a like for like roof

replacement.

AXA should put things right, by returning Mr D's home to its pre-loss state, which is with the terracotta tiles.

My colleague indicated that AXA should settle this in line with the policy terms as set out. I agree with the method of settlement this results in, but for the avoidance of doubt, this is no longer a situation where the policy operates. This compensation is putting things right following AXA's wrong decision and is not subject to the policy terms.

Putting things right

In order to put things right, AXA should replace Mr D's roof, back to its previous condition of being covered in original clay tiles. It may do this itself through its own contractors if it wishes to do so, or alternatively it may pay the costs which Mr D is able to achieve for replacement through his own contractors. It should make a decision on which method of compensating Mr D it wishes to pursue without delay.

As the costs of this work have not yet been incurred, I do not add interest to this award, but if there are undue delays in putting things right then Mr D would again be able to complain to our service. I hope that this will not be necessary.

My final decision

For the reasons set out above, I uphold Mr D's complaint and direct AXA Insurance UK Plc to:

- Arrange for the replacement of concrete tiles at Mr D's home with original clay tiles;
or
- To pay to Mr D a sum equivalent to the cost to him for replacement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 31 July 2024.

Laura Garvin-Smith
Ombudsman