

complaint

Mrs H has complained about AXA Insurance UK Plc's handling of her claim made under her home insurance policy following a flood at her property in November 2009.

background

Within her initial submissions made to this office, Mrs H raised the following concerns:

- Mrs H suffers from an illness that she states came out of remission due to AXA's handling of her claim;
- The repairs to her home took longer than they should have done, and have not been completed to her satisfaction;
- AXA failed to proactively communicate with her during the claim;
- Since May 2010, her expenses covering travel, the costs of relocating animals and her accommodation costs have not been met by AXA;
- Her property is suffering from a series of snagging issues following repairs carried out by AXA's contractors;
- The disabled shower enclosure she had has not been replaced on a like for like basis, and nor has her kitchen;
- Both the replacement kitchen and bathroom flooring are showing signs of dampness and need replacing;
- On renewal of her policy in 2010, the premium was initially set to increase from £284.88 to £964.12. The premium was revised to £444.40, and the excess for flood was increased from £50 to £5,000. Mrs H considers this to be unreasonable, given that she had 5 years protected no claims bonus, and that this is the first time her home has flooded in more than 13 years living at the property.

To put matters right, Mrs H wanted AXA to:

- Complete all the outstanding snagging repairs;
- Provide recompense for items removed and not replaced as detailed on the snagging list;
- Provide compensation for the impact AXA's handling of the claim had had on the lives of her and her daughter, and the deterioration in her health.

Our adjudicator upheld this complaint in part. With regard to bedroom units, he noted that AXA had agreed to replace missing shelving, and to make further modifications where the woodwork did not meet the walls. He also considered that AXA's loss adjuster's willingness to attend a further site meeting to discuss outstanding issues relating to the repairs represented an appropriate proposal.

In terms of the exacerbation of the symptoms of Mrs H's illness, our adjudicator's view was that it would be difficult to show that it was only problems caused by AXA and its agents when handling the claim that was the cause, rather than the general upheaval that accompanied the making of the claim itself and having to move into alternative accommodation. He did however consider that AXA had carried out poor quality repairs in respect of flooring and general decoration. Taking this into account, together with the change in the appearance of the kitchen and bedroom when compared to that which had been previously installed, he proposed that AXA should pay Mrs H £1,000 compensation (which included a sum of £250 already offered by AXA). AXA did not agree with the proposal, but was prepared to offer a total compensation amount of £750.

The adjudicator issued an assessment to Mrs H confirming AXA's increased compensation offer.

Mrs H rejected our adjudicator's findings and appointed her local Citizens Advice Bureau Head of Service (Mr D) to act on her behalf. Mr D wrote directly to AXA regarding his concerns about its handling of the claim, and the business increased its compensation offer from £750 to £1,000. In addition, correspondence between him and AXA led to AXA asking for estimates from Mrs H's contractors to be forwarded in order to progress the consideration of her claim. Mr D asked for the complaint at this service to be placed on hold whilst the repairs at the home were completed.

A second adjudicator was asked to review the file. He explained that it would not be possible for the complaint to be held in abeyance until the repairs were completed. In addition, the adjudicator clarified that issues which had arisen after Mrs H brought her complaint to this service would need to be referred in the first place to AXA as a new complaint, to allow AXA the opportunity to respond to them.

The adjudicator did however feel that the following aspects of the complaint made needed further investigation:

- What would be an appropriate resolution to outstanding snagging issues identified following the repairs that had been carried out at Mrs H's home by AXA's contractors?
- Was the proposed payment of £1,000 in respect of distress and inconvenience caused to Mrs H by AXA's handling of her claim sufficient in the circumstances of this case?
- How should Mrs H's claim in respect of out of pocket expenses be dealt with?

From his conversation with Mr D, our adjudicator established that a further inspection of the property had now taken place, and that significantly more agreement had been reached between the parties regarding the extent of works still needed to reinstate the property.

The adjudicator also discussed the evidence that had been presented to date that related to Mrs H's contention that AXA's claim handling had caused her illness to come out of remission. Mrs H was keen to progress her complaint in respect of repairs to her home, and did not want the acceptance of an opinion on the repairs to be linked to an opinion on the matters raised regarding her health, in the event that she was dissatisfied with one of the outcomes. For this reason she made the decision to withdraw the health related issues from this complaint, allowing this complaint to focus solely on matters pertaining to the repairs.

A new complaint was set up to deal with Mrs H's claim that AXA's actions had led to a worsening of the symptoms of her illness, and I did not therefore consider this matter in my provisional findings on this complaint.

Prior to this file being passed to me for review, Mrs H provided further submissions regarding the issues she would like my assessment to take into account. In addition to reiterating some of her concerns noted above, she highlighted the following:

- Her claim was placed on hold in April 2010 without her being informed why this was the case (I understand that this related to AXA's concerns that Mrs H may have been operating as a professional animal breeder from her property);
- Mrs H has had to rectify poor workmanship carried out at her property by AXA's contractors at her own expense;
- Mrs H wanted to ensure that if a cash settlement was made in lieu of AXA carrying out repairs, the sum paid would cover all repairs, including a contingency amount, plus out of pocket expenses (such as costs relating to her pets);
- Mrs H has stated that most doors have not been properly fitted by AXA's repairers as they are allowing draughts into her property, and she has asked that AXA takes this into account when settling the claim;
- Mrs H has provided a summary of the general level of disruption AXA's handling of her claim has caused to her lifestyle;
- Mrs H asked that AXA apologise for its handling of her claim, and allocate to her a specific point of contact for the remainder of the claim.

my provisional findings

I issued a provisional decision regarding this complaint in March 2013. I confirmed that I was minded to uphold Mrs H's complaint, and require AXA to carry out the following actions:

- Continue its negotiations with Mrs H to reach an agreement as to how the issues raised regarding poor repairs should be resolved. AXA should then offer Mrs H the option of a cash settlement, or for repairs to be carried out by contractors appointed by AXA. If she was dissatisfied with AXA's final position, Mrs H could refer a new complaint to this service if she wished to do so. The choice as to whether the claim is cash settled, or new contractors appointed by AXA are brought in to complete the works under the existing election to repair, would be the choice of Mrs H.

Where AXA makes payment to Mrs H for any expenses she has already incurred rectifying poor repair work carried out by AXA's contractors, simple interest at 8% per annum (less tax if properly deductible) should be added from the date she incurred each expense to the date of settlement;

- Pay Mrs H £2,000 for the distress and inconvenience AXA's handling of the claim has caused her, less any sum already paid under this heading. Issues relating to the effects this has had on Mrs H's health will be considered under a new complaint;

- Reconsider all Mrs H's out of pocket expenses claims, and set out exactly what it had paid under this heading. AXA can deduct animal feeding expenses Mrs H would normally have paid, and I considered it reasonable that Mrs H should provide this evidence if AXA requested it.

AXA should also analyse past electricity usage if it wishes to deduct a sum relating to any savings Mrs H may have made in this regard. If it does wish to take such savings into account, AXA must evidence these for reasonability. If reconsideration of the out of pocket expenses leads to a further cash settlement being made, to this should be added simple interest at 8% per annum (less tax if properly deductible) from the date each expense was incurred to the date of settlement;

- Provide underwriting guidance to evidence why Mrs H's renewal terms were altered following the insured event;
- Adjust the claim record to the level it should have been had repairs been completed first time to a good standard in an expeditious manner;
- Provide Mrs H with an apology for the manner in which the claim has been handled to date. AXA should also ensure where possible that Mrs H is provided with a single point of contact at AXA for the period that the insurance claim remains outstanding.

Responses to my provisional decision

In summary, Mrs H made the following comments:

- As part of the repair process, Mrs H signed a contract with AXA's agent, and she is of the opinion that it breached its contract. Mrs H has commented that paperwork signing off the repairs was not provided, and that following the initial repairs pipework from radiators leaked in various rooms, damaging the flooring;
- Prior to her claim, Mrs H has explained that her bathroom was adapted to her specific needs. However, the replacement shower, toilet and basin that have been installed are unsuitable for her needs, making her daily life difficult. AXA appears to be unwilling to deal with these issues until matters relating to all the repair works have been resolved, resulting in Mrs H living with unsuitable bathing facilities;
- AXA has accepted that the damp conditions Mrs H has complained about should be covered under this insurance claim. However, whilst AXA has agreed in part to compensate Mrs H for damaged contents caused by the damp, this has not been fully resolved. There is also damp to an outbuilding that Mrs H regards as being due to the repairs carried out. The full extent of damage and necessary repairs is as yet unknown;
- There remain issues with the kitchen that mean it is not fitted as it was before the insured event. Mrs H states that there have also been serious health and safety issues as a result of the repairs, such as a glass oven door falling out;
- Mrs H states that the manner in which her out of pocket expenses were handled by AXA was unsatisfactory. After her claim was put on hold the expenses were not met, at a time when local accommodation was very expensive. Mrs H has noted that when she attended a family wedding in June 2010, she was still fit and well. However, her dogs became unwell as a result of being in kennels for such an extended period, and this

affected her own health;

- The livery costs she submitted to AXA did not include feed costs. After the flood, and due to the lack of communication from AXA, Mrs H states that her dressage horse had to be moved at short notice. Prior to the claim, Mrs H has explained that she rented a field next to her property, but she states that due to delays in the insurance claim, the owner took this back. Mrs H states that due to having to move the horses at short notice she incurred transportation costs, and she has asked that these be considered as part of the out of pocket expenses claim. She also had to pay a rider to keep the dressage horse fit;
- The replacement stable that has been installed is of a poorer quality than that previously in place. Mrs H also states that the stable mats from the old stables were not stored but instead were left in the garden for months. They were then cut into small pieces so that they would fit the new stables, and were not even cleaned;
- Fish in the pond were killed due to the negligence of the builders. Mrs H states that a neighbour witnessed workers washing tools used to mix cement with a hose situated by the pond;
- Mrs H is unhappy that AXA has made deductions from the out of pocket settlement amount that relate to dog food. She has explained that prior to her home being flooded, she had purchased dog food that lasted some months. Once her dogs moved to kennels, she initially took food to them, but was advised that the costs at the kennels were the same if food was provided or not;
- Mrs H has explained that since July 2010, three of her dogs have died, and she states that two of these deaths were the result of stress because the dogs were in kennels for ten months. In terms of missing a major international dog show in 2010, Mrs H states that this was due to her dogs being in kennels and therefore being unfit to compete;
- Mrs H has attempted to provide AXA with information relating to expenses such as council tax and utility bills, but has encountered difficulties because many of her records were in storage, and because she was experiencing a serious lapse in her health;
- Mrs H states that her policy premiums have been increased unreasonably since the flooding occurred, with her excess also being increased. She also feels the cost of the claim has been significantly inflated compared with what it should have been had AXA handled it properly;
- Mrs H states that the handling of the claim since July 2010 has had a continually detrimental effect on her life. This includes having to deal with a lengthy snagging list to ensure her home is safe and watertight, and claiming for her out of pocket expenses;
- Mrs H has explained that whilst before the flooding she experienced much enjoyment living at her property, AXA's handling of the claim has badly affected her attitude to her home. Due to the issues which have arisen with the repairs, she is now concerned that further problems with the property will become evident in the coming years;
- With regard to the compensation I proposed for distress and inconvenience, Mrs H has asked that I reconsider this, taking into account the suffering her animals endured, and the time it has taken for AXA to deal with the claim since things started to go wrong in

July 2010. She has also highlighted that she will suffer further disruption when outstanding repairs are carried out at her property;

- Mrs H is concerned that she is now being pressurised into accepting a full and final cash settlement. As negotiations are continuing, she has asked that an interim settlement be made so she can get her shower and DPC repaired;
- Mrs H would like an apology for the handling of her claim to be made to her by a senior member of AXA staff.

A summary of AXA's response to my provisional decision is as follows:

- Some of the delays repairing the home were caused by Mrs H;
- Mrs H selected the bedroom and kitchen furniture, and only expressed dissatisfaction with their quality once they were installed, delaying progress of the claim;
- Mrs H chose the bathroom suite. The loss adjuster sourced options to replace the shower cubicle with something more robust but Mrs H did not respond with a selection for a prolonged period of time;
- No independent evidence has been provided to prove the allegations that AXA's contractors smoked at the property, used Mrs H's tools, and discarded rubbish;
- Mrs H has continually added items to her claim, despite having been given the opportunity to provide full details during two inspections at the property;
- AXA consider a £1,000 compensation payment for distress and inconvenience caused is sufficient, but has suggested a compromise amount of £1,500 might be appropriate;
- AXA instructed its loss adjuster to attempt to agree a final settlement under the policy. As Mrs H did not provide sufficient evidence in respect of her usual expenses, AXA states it attempted to deal with matters "*on a pragmatic basis*". It met kennelling and livery costs whilst Mrs H was in alternative accommodation, but looked to offset these against the usual cost of keeping the horses and dogs at the risk address. AXA has asked that Mrs H provide it with documentary evidence in support of all incurred expenses which she believes that it has not provided sufficient funds for, so that it can consider any interest payments from the date of expenditure;
- AXA stated that it had already apologised to Mrs H on at least one occasion, and it did not consider that a further apology was warranted, or would take matters any further forward;
- AXA states that it cannot set the claim record to anything other than that which has been paid. It confirmed however that if required, it could analyse the final claim costs and endeavour to detail the additional expenditure that had been incurred when compared to the cost if reinstatement had taken place at the first attempt;

AXA then sent in a copy of its underwriting manual in response to the questions raised by Mrs H regarding renewal terms offered to her since the flood claim was made. The manual indicates that in the period from when the claim is made to when it is settled, the only action

that would be taken on renewal is for the flood excess to be increased to £1,000, although there would seem to be some discretion for cases where the claim value exceeded £30,000.

Having reviewed the premium increases applied from 2010, AXA accepted that the increase it had imposed at renewal in 2010 was not reasonable. It stated the premium should only have increased by 20% in that year, and agreed to refund a sum to Mrs H to reflect this. It also accepted that the flood excess should only have been increased to £1,000 as a result of the on-going claim, rather than £5,000.

AXA was asked by the reviewing adjudicator on my behalf to provide a statement from its chief underwriter or senior manager of the underwriting team as to what terms it would have offered on renewal if the true cost of the flood claim (excluding duplication of works that has occurred) exceeded £30,000. Whilst a statement was received it was not from the chief underwriter, and other correspondence seemed to indicate that AXA's own complaint handler thought that the 20% premium increases finally agreed for 2010 and 2011 may have exceeded the guidance given in the manual.

The adjudicator expressed an opinion to both Mrs H and AXA that I was likely to find the 20% premium increases in 2010 and 2011 to have been unreasonable. Consequently he proposed that AXA should refund to Mrs H all premium increases applied in excess of standard increases from 2010, with interest being added to these sums. AXA responded by stating that its underwriters had already advised that the 20% rise in premiums was in line with normal year on year increases, and was unrelated to the flood claim.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

The responses Mrs H made to my provisional decision were full and detailed. With regard to the sum I proposed of £2,000 for distress and inconvenience caused to Mrs H by AXA as a result of its handling of the claim up to the date of my provisional decision, Mrs H has highlighted reasons why she considers this sum should be increased. In particular, Mrs H has referred to the difficulties she has encountered living in a property which has yet to be satisfactorily repaired, her reduced enjoyment of her home as a result of these delayed and unsatisfactory repairs, and the distress that has been caused to her animals whilst these problems have been on-going.

AXA accepts that its repairs of the property has caused unnecessary distress and inconvenience to Mrs H. It considers £1,000 compensation under this heading to be reasonable, but has suggested a figure of £1,500 might be appropriate taking into account the sum I proposed in my provisional decision.

I have considered these further points made by both parties. In my view, it is clear that the handling of this claim by AXA has caused Mrs H much unnecessary distress. Repairs were not completed satisfactorily, in particular with the reinstatement of the bathroom. It seems to me that this has caused exceptional disruption to Mrs H's life and enjoyment of her home, and an exceptional award of compensation is therefore appropriate.

I remain of the opinion that taking into account the difficulties Mrs H has encountered as a result of AXA's handling of her claim, and mindful of the scale of awards made by this service under this heading, Mrs H should receive a compensation sum of £2,000 (including

any sum already paid by AXA under this heading) to reflect the distress and inconvenience caused to her.

In respect of the outstanding repairs, it seems that whilst this complaint has been investigated by this service much progress has been made in resolving these, albeit some new issues do also appear to have arisen. I find Mrs H's suggestion that an interim settlement be made to her to allow her to progress some of the more urgent issues to be entirely reasonable, and one that AXA should actively pursue. However, with regard to the areas that remain in discussion between Mr H and the loss adjuster, I remain of the opinion that these negotiations should continue, and in the event further deadlock is reached a new complaint can be raised.

Mrs H raised several new areas of loss in her response to my provisional decision when addressing the issue of her out of pocket expenses, such as additional vet fees. Any expense Mrs H feels she encountered as part of the claim that has not previously been highlighted should be referred to AXA for consideration in the first place. I would however say that I remain of the opinion that the usual utility and animal feeding expenses Mrs H would have encountered if the claim had not occurred can reasonably be taken into account by AXA when assessing out of pocket expenses due.

Having reviewed the additional information AXA has now supplied in relation to the increases in premiums that have occurred since the flood claim was made, on balance it seems unlikely to me that a 20% increase is likely to be due to normal year on year premium rises. The underwriting manual only explicitly refers to AXA increasing the policy excess to £1,000 where an outstanding flood claim exists. It therefore seems reasonable to me that AXA must rework the premium increases from 2010 onwards in line with normal year on year increases, rather than a flat 20% rise. If this results in premiums being refunded, simple interest at 8% per annum should be added from the date each higher premium was paid until the date of settlement. I understand that the flood policy excess has already been reduced to £1,000, so no further action need be taken in this regard.

Although AXA has stated that it has previously apologised for the handling of this claim, problems with the quality of repairs have continued to come to light whilst this complaint has been investigated at this service. In the circumstances my view is that a further apology to Mrs H is due from a senior member of staff.

As a final point, I would highlight that it is inevitable the costs now attached to this claim are far higher than they would have been if the claim had been handled expeditiously and without errors in the repair process. When this claim is finalised, AXA should review the costs incurred and set the claim record at the cost level it would have been if the repairs had been carried out successfully at the first attempt. This will ensure that Mrs H's claims record does not show an inflated sum expended on the claim due to AXA's poor handling of it, and the poor quality of repairs carried out. Whilst I note AXA is of the opinion that the claim record placed on its own database and any external databases it records such data on cannot be amended, my understanding is that this is an exercise regularly completed by other insurers, and AXA should therefore find a way to carry out this task.

my final decision

My final decision is that I uphold this complaint and require AXA Insurance UK Plc to carry out the following actions:

- Continue its negotiations with Mrs H to reach an agreement as to how the issues raised regarding poor repairs should be resolved. AXA should then offer her the option of a cash settlement, or for the repair to be carried out by contractors appointed by AXA. If Mrs H is dissatisfied with AXA's final position, this could then be referred back to this service as a new complaint. The choice as to whether the claim is cash settled, or new contractors appointed by AXA are brought in to complete the works under the existing election to repair, will be the choice of Mrs H. If Mrs H does wish to cash settle the claim, I require AXA to cash settle the issues already agreed straightaway such that Mrs H can proceed with essential repairs, such as to her bathroom and the DPC;
- Where AXA makes payment to Mrs H for any expenses she has already incurred rectifying poor repair work carried out by AXA's contractors, simple interest at 8% per annum (less tax if properly deductible) should be added from the date Mrs H incurred each expense to the date of settlement;
- Pay Mrs H £2,000 for the distress and inconvenience AXA's handling of the claim has caused her, less any sum already paid under this heading.

To reiterate, issues relating to the effects this has had on Mrs H's health are being considered under a new complaint;

- Reconsider all Mrs H's out of pocket expenses claims, and set out exactly what it has paid under this heading. AXA can deduct animal feeding expenses Mrs H would normally have paid, and I consider it reasonable that Mrs H should provide this evidence if AXA requests this.

AXA should also analyse past electricity usage if it wishes to deduct a sum relating to any savings Mrs H may have made in this regard. If it does wish to take such savings into account, AXA must evidence these for reasonability. If reconsideration of the out of pocket expenses leads to a further cash settlement being made, to this should be added simple interest at 8% per annum (less tax if properly deductible) from the date each expense was incurred to the date of settlement;

- Rework Mrs H's premiums for 2010, 2011 and 2012 to the level they would have been had a normal premium rise only been applied in 2010 and 2011, rather than the 20% actually applied. The policy excess for flood should also be reduced to £1,000 whilst the claim remains outstanding. Any refund of premiums due to Mrs H should have added to it simple interest at 8% per annum (less tax if properly deductible) from the date each premium was paid to the date of settlement;
- Adjust the claim record to the level it should have been had repairs been completed first time to a good standard in an expeditious manner;
- Provide Mrs H with an apology by a senior member of staff for the manner in which the claim has been handled to date. AXA should also ensure where possible that Mrs H is provided with a single point of contact at AXA for the period that the insurance claim remains outstanding.

John Swain
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