

## **The complaint**

B, a company, complains about a claim made on its AXA XL Insurance Company UK Limited ('AXA') commercial site insurance policy.

This complaint is brought by one of B's Directors but for ease of reference I shall refer to the submissions made on its behalf as being its own.

## **What happened**

B made a claim on its AXA site insurance policy to recover the cost of items it said had been stolen from its site. AXA appointed loss adjusters to consider the claim who gathered information about the circumstances of the theft and the items taken from B's site. The loss adjusters concluded the claim wasn't one that was covered by the policy because there wasn't enough evidence to establish that the items belonged to B or that B was responsible for them. As a result, AXA declined the claim.

B says that AXA were wrong to decline the claim and that it has lost out on selling the properties it built on the insured site because it couldn't complete them without the stolen items as it didn't have enough money to fund these itself. As such it wants AXA to pay its claim and provide it with compensation for this.

Our investigator considered B's claim and concluded it shouldn't be upheld. She said that there wasn't enough evidence to establish the items claimed for belonged to B as required by the policy, so AXA were entitled to decline the claim. B doesn't agree so the matter has been passed to me to determine.

## **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 won't be upholding B's complaint for broadly the same reasons set out by the investigator. I'll explain why.

The starting point is the policy terms. They say:

*"In the event of direct physical loss of or damage to the Insured Property occurring on or adjacent to the Project during the Period of Insurance, the Insurer will cover the Insured against such loss of or damage to the Insured Property, up to the Sum Insured stated in the Schedule. Provided that such Insured Property belongs to the Insured, or for which the Insured is responsible under a written Contract and is intended for use on the Project and in connection with the Project"*

In this case the insured is B. Because it's a commercial entity there are no further terms that can be read into anyone else being covered under this policy except B such as an *"immediate family member living with the Insured"* (as noted in the policy) because B is not a natural person. The onus in this claim was on B to establish there was an insured event it

was entitled to claim for under the policy. So, B needed to prove to AXA that the property it was claiming for either belonged to it or that it was responsible for it under a written contract.

As I understand it, the items being claimed for were taken away by the entity who supplied them on the basis that B hadn't paid for them. B disputes this. Rather it says it paid for the items and has shown that it's made payments towards by providing evidence of those payments. The payments were made by a different legal entity which I understand is connected to B in that the Director of that entity is married to the Director of B. The invoices from the supplier of the goods being claimed for under the policy were however addressed to the Director of B directly.

B says this shouldn't cast doubt on the ownership of the items in question. It says that the sums from the other entity were advanced on B's behalf to the supplier because that entity owed money to the Director of B. Whilst that may be the case, I'm not sure that establishes that the property being claimed for *belonged* to B. The invoices themselves aren't addressed to B as a legal entity- they're addressed to its Director. So, they could well have been owned by her in her personal capacity. And there's no other evidence that I've seen that suggests that B specifically was responsible for the items under a written contract. Indeed, I've not seen a written contract addressed to B at all for them. As such, I think that AXA were entitled to decline the claim on the basis of the information supplied to it by B.

That having been said, if B is able to provide further information that establishes that the items claimed for either belonged to it or that it was responsible for them by way of a written contract then I would expect AXA to reconsider its claim.

### **My final decision**

For the reasons set out above, I don't uphold B's complaint against AXA XL Insurance Company UK Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask B to accept or reject my decision before 19 October 2023.

Lale Hussein-Venn  
**Ombudsman**