

The complaint

Mr K and Mrs S complain about how AXA Insurance UK Plc handled and settled a claim they made on their buildings insurance policy.

AXA are the underwriters (insurers) of this policy. Much of this complaint concerns the actions of their appointed agents. As AXA have accepted they are accountable for the actions of their agents, in my decision, any reference to AXA should be interpreted as also covering the actions of their appointed agents.

What happened

The background to this complaint is well known to both Mr K, Mrs S and AXA. In my decision, I'll focus mainly on giving the reasons for reaching the outcome that I have.

Mr K and Mrs S had a buildings insurance policy with AXA. In June 2021, they had an escape of water and made a claim against their policy. AXA accepted the claim and ultimately settled the claim around October 2022.

Mr K and Mrs S made a complaint to AXA as they were generally unhappy with the service they'd received whilst the complaint had been ongoing, the settlement (specifically issues relating to their kitchen replacement and a Velux window) and the overall impact on them given their personal and family circumstances.

AXA issued a final response letter in May 2022. In this letter they apologised for the issues relating to only initially partially replacing the kitchen and any inconvenience caused by how they handled the claim. They said that they wouldn't be replacing the Velux window as there was no evidence that the damage to it was claim related. They offered £100 compensation overall.

Remaining unhappy, Mr K and Mrs S referred their complaint to our Service for an independent review. Our Investigator most recently recommended that AXA didn't need to do anything further and didn't uphold the complaint. As Mr K and Mrs S disputed, the complaint has now been referred 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.

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Although a number of issues have been raised, this decision only addresses those issues I consider to be materially relevant to this complaint. This isn't meant as a discourtesy to either party – it simply reflects the informal nature of our Service as a not for profit, alternative dispute resolution scheme. For example, both parties are already aware that

these events have been going on for an extensive amount of time – over two years and I've only summarised the key points of the background earlier in my decision.

I also want to make it crystal clear to AXA that under the relevant DISP rules (DISP 1.6) <https://www.handbook.fca.org.uk/handbook/DISP/1/6.html?date=2005-01-14> (which they are obliged to operate under), they are expected to co-operate fully with our Service. When this complaint was referred to our Service, AXA seemingly sent every document and report (over 1500 pages) they had on their complaint file – whether they were relevant or not. Our Investigator made a very reasonable request to AXA to send a concise file with the relevant documents - but this request was refused. The core issues that this complaint raises are straightforward and not uncommon in this type of claim, but AXA has avoidably over complicated things when providing excessive evidence that has little to no relevance to the subject matter of this complaint. However, in the interests of completeness I have reviewed all the evidence submitted but I won't make reference to all of it - as it's simply not relevant.

I've noted both parties responses to our Investigator's assessments and the main point of contention that remains now is whether or not AXA should replace the Velux window in question.

In my decision, my role isn't to establish how exactly the loss (the issues with the window) came to be, but to consider whether AXA have fairly investigated and considered this part of the claim before declining it.

Mr K and Mrs S have said that the damage being claimed for is as a result of condensation and that there was no evidence of mould or other damage noted in February 2021 (prior to the claim event). They've provided two expert opinions – one from an independent third party company dated March 2023 and an earlier opinion dated November 2022 from the engineer who'd attended to rectify a separate issue related to glazing in February 2021. AXA also provided various opinions from their inhouse experts.

The earlier opinion from 2022 stated:

“At the time of the work being carried out and the inspection that followed, there was no mould on the window frame and no further attention was needed to the window at that time other than the glazing replacement.”

I've placed some weight on this opinion, but kept in mind no photos or supporting evidence have been submitted to back this up. I've placed more weight on the more recent report from the independent third party expert. Although this is new evidence (that wasn't available at the time of this part of the claim being declined) I've considered it is relevant to my consideration - particularly given how long this claim has been going on for and it's also been shared with AXA. Of importance here are points 9 and 10 in the report:

“9. The mould penetration into the grain of the wooden frames is almost impossible to eradicate as the mould tracks & spores will be deep within the timber.

*10. Both frames should be replaced as they are compromised – in my opinion this is due to large amounts of excess condensation being present on the roof window glazing & timber frames **for a period of time that I cannot determine.** [bold added for emphasis by Ombudsman]”*

I need to acknowledge that both opinions refer to there being no evidence of mould in early 2021, but the lack of mould does not mean that the root cause and damage hadn't existed prior to this.

On balance, given the age of the window and that it seems *more likely than not* this problem has occurred over time and began prior to the repair works (related to the escape of water), I find that AXA have fairly considered this part of the claim and have fairly relied on the gradual causes exclusion to decline the claim.

It seems to be accepted by both parties that there will have been higher humidity and increased condensation whilst the escape of water repair works were ongoing, but if this was the root cause of the loss here I'd reasonably expect there'd have been much more widespread damp/mould related issues throughout the property, notwithstanding the extractor fan that had been fitted.

The other main issues raised and how AXA have treated Mr K and Mrs S overall

As outlined above, the core issue of contention remaining in this complaint was the Velux window. Although I note that Mr K and Mrs S didn't respond specifically to disagree with our Investigator's other findings, for completeness I've reviewed the entirety of the complaint afresh.

Mr K and Mrs S wanted compensation related to the kitchen part of the claim, but when I've considered what's happened, I'm satisfied that AXA ultimately treated them fairly when settling this part of the claim and won't be making any direction that they need to do anything further in this regard.

It's clear that this claim happening over the course of a long period of time will have been disruptive for Mr K and Mrs S – particularly given their parenting responsibilities. This claim has not progressed to settlement as smoothly as either party would've liked. But when I've balanced how AXA handled the claim against the backdrop of the relevant COVID-19 restrictions in 2021 and early 2022, delays not caused by AXA and the relatively high value of the claim, I'm satisfied on balance that any shortcomings aren't poor to the extent that further compensation would be fair, reasonable or proportionate. I find the £100 already offered to be fair.

I've no doubt my decision will disappoint Mr K and Mrs S, but it brings to an end our Service's involvement in trying to informally resolve their dispute with AXA. I hope that Mr K and Mrs S feel listened to and reassured that an independent Service has fully considered the circumstances of their complaint against AXA.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K and Mrs S to accept or reject my decision before 5 November 2023.

Daniel O'Shea
Ombudsman