

## **The complaint**

Mrs W complains AXA Insurance UK Plc has refused to accept responsibility for a damp problem in her home.

Mrs W's been represented for the claim and complaint. For simplicity I've referred to the representatives' actions as being those of Mrs W. Similarly I've referred to AXA's agents' and contractors' actions as being its own.

## **What happened**

Mrs W made a claim for subsidence to her home. AXA accepted the claim and undertook various repairs – including replacing flooring in a few rooms. In May 2022 she came to this service. She was unhappy with various aspects of how the claim had been handled. After our Investigator considered that complaint Mrs W and AXA accepted it to be resolved.

In January 2023 Mrs W returned to this service. AXA had been set to investigate the cause of dampness to walls in one room of her property. She feels that had been caused by AXA's poor workmanship during the subsidence claim repairs. Mrs W was unhappy AXA had asked her to sign a disclaimer before it would make any intrusive investigations.

But before our Investigator had considered that issue, AXA decided not to undertake any investigation. It said it had evidence to show the damp pre-existed its repair work. So it said it wasn't responsible for the damp and refused to take any further action. Mrs W didn't accept that. But our Investigator felt the evidence supported AXA's position. So she didn't ask it to do anything differently. As Mrs W didn't accept outcome the complaint was passed to me to decide.

## **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.

As this is an informal service I'm not going to respond here to every point or piece of evidence Mrs W or AXA have provided. Instead I've focused on those I consider to be key or central to the issue. But I would like to reassure both that I have considered everything provided.

Although Mrs W's complaint was originally focused on the now redundant disclaimer, her underlying concern is AXA's refusal to accept responsibility for the damp problem in her home. So I've considered if its position is fair and reasonable. That means asking if it's likely directly claim related – so resulting from the original subsidence. Or alternatively if it's caused by AXA's repairs when settling that claim.

I'd expect AXA to make a lasting and effective repair. Mrs W feels it hasn't. In her opinion its repair to a breakfast room has caused additional problems – damp in the room's walls. To resolve this she wants AXA to lift the floor and relay it and remove and repair damaged plaster on all four walls.

I've summarised Mrs W's position. There was some dampness in the room, to walls and floor, caused by the drainage damaged by the subsidence. AXA failed to dry the room adequately before undertaking repairs. It didn't include adequate damp proofing when repairing the solid floor. It laid two rounds of self-levelling compound (SLC). This bridged an existing damp-proof course (DPC) via skirting backing timber. The floor slopes towards an outer wall. As a result moisture from the SLC ran to an external wall and now rises the walls causing a progressive damp issue. Mrs W feels various reports, from May 2022, July 2022 and October 2022, support her position.

I've summarised AXA's position. The damp isn't related to the original subsidence or its repair works. It pre-existed the repairs as photos demonstrate. It's likely been occurring for some time. The cause is inadequate or non-existent DPC. A new damp proof membrane is required. So the problem is a maintenance one, rather than claim related.

I've considered and summarised the key evidence.

AXA's repair to the flooring took place in October 2021. A photo, from before the repairs, showing the old solid floor shows evidence of dampness – peeling wallpaper and signs of mould staining at a low level. The subsidence drains issue had been known about for a while at that point. So the photo demonstrates a damp issue before the repairs began – although it doesn't evidence it didn't exist before the subsidence.

The May 2022 report, commissioned by AXA, found evidence to indicate walls to be contaminated with hygroscopic salts. It explains these are typically associated with breach of ground water. It found raised moisture levels at low levels on the walls. The report says it's possible the dampness may have occurred due to inadequate drying. It recommended damp proof specialist be appointed to inspect the damp proofing.

A few months later, in July 2022, a damp proofing firm (again commissioned by AXA) inspected the property. The resulting report is the most persuasive report. It provides the greatest detail and technical explanation.

The inspection took place about nine months after the repairs. It found no visible evidence of widespread structural damp – apart from some peeling and bubbling wallpaper at low level and damp staining. The damp shown and described seems to be broadly the same condition and extent as the pre-repair photo discussed above. So it doesn't support Mrs W's view that the problem has progressed or worsened significantly in the nine months since the repairs.

Moisture readings were taken for the walls. These were found to be generally low to moderate (8 to 10%) with some isolated high (ie 59%) readings - particularly in the areas of damaged wallpaper.

The report explains some very high readings as being typical of plasterwork contaminated by ground salts. It explains how they build up in masonry over a very long period and leach through to plaster. These absorb moisture from the atmosphere, giving a false indication (through moisture meter readings) of the degree of dampness.

The July 2022 report does consider if AXA's October 2021 floor repair could be, as Mrs W claims, responsible. It finds it to be feasible moisture, within the floor structure, could end up in the wall. But concludes this would only occur if the walls didn't contain an adequate damp proof course. It doesn't address or support Mrs W's bridged DPC argument. Instead it found there to be 'no apparent evidence' of an existing damp proof course. The report does accept one may be concealed by render. Mrs W disputes the lack of DPC – stating it's shown in one of the report's photos.

The report concludes, based on the condition of the plaster, that the dampness issue has been occurring for a number of years. It doesn't recommend, as a solution, removal of the new flooring or skirting backing that Mrs W believes to be the cause of progressive dampness. Overall it doesn't support her view of the damp as claim related – instead it points to it be a long standing, slowly developing issue.

Mrs W commissioned October 2022 - again provided by a damp proofing firm. This does support Mrs W's position. It says the SLC bridged an existing DPC, allowing moisture to rise up the wall. It doesn't provide any further technical explanation or photos to support this conclusion. There's no discussion of the extent or location of damp its author found. So it's not possible to understand, from the report, if the damp had progressed since earlier points considered.

Mrs W says damp has now risen high up the walls. To support this her representative provided photos taken in mid-September 2023. These show mid height moisture meter readings for two walls.

Two aren't very clear – but appear to be in the 10% to 19% range. Two more show 12.5% and 27.5%. Taking the July 2022 report, and other sources, as benchmarks the lower three, at least, could be said to be in the 'low to moderate' scale. None of the four seem to be in the range of the 'high' reading (57%) of the lower visibly damp wall. The photos don't show any clearly visible signs of damp – like staining or peeling wallpaper. So they don't persuade me damp has progressed higher up the wall or got significantly worse since AXA's repairs.

I realise my decision will be a disappointment for Mrs W. But it's based on the evidence available to me as set out above. I accept there is damp on the relevant walls. I accept it's possible it's claim related or that AXA's repairs are responsible. But unfortunately for Mrs W, what I've been provided with hasn't persuaded me it most likely is.

Overall I haven't seen enough to persuade me the damp has worsened or progressed significantly since AXA's repairs. The available photos and descriptions don't evidence that. Neither is there enough to make me think the subsidence is probably the cause. The most persuasive evidence, the July 2022 report, finds the problem to be something that's been occurring over a number of years.

So I can't say AXA's position that the damp is a pre-existing problem is unfair or unreasonable. That means I'm not going to require it to do anything to address the damp issue.

Mrs W's also referred to AXA's poor communications and wider poor service and workmanship. I haven't considered that her as I can see it was looked at in the previous complaint she had with this service.

### **My final decision**

For the reasons given above, I don't uphold Mrs W's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 12 October 2023.

Daniel Martin  
**Ombudsman**