

The complaint

Mr B's complaint is about a claim he made on his AXA Insurance UK Plc ('AXA') business protection insurance policy for damage to his property by his former tenants.

Mr B is unhappy about the excesses applied to his claims and about the sum offered to him in respect of a damaged piano.

What happened

Mr B says his property was damaged by his tenant. As a result, he made a claim on his AXA business protection insurance policy for cover to rectify the damage caused.

AXA appointed a loss adjuster to consider Mr B's claims. The subject of this complaint is the number of excesses applied to the claims he's made as well as the sum offered to him in respect of a damaged piano. Mr B is unhappy with both of those things.

AXA said they relied on the advice of a specialist when settling the cost of the piano so they don't agree that any further sums should be paid to Mr B in respect of this. They also said they reduced the number of excesses legitimately applicable to the number of claims made with a view to reaching a fairer outcome for Mr B from fifteen to eleven. Unhappy, Mr B referred his complaint to the Financial Ombudsman Service.

Our investigator considered Mr B's complaint and concluded it shouldn't be upheld. She said that AXA was entitled to rely on the specialist advice it received in respect of the valuation of the piano and Mr B agreed to accept this amount in any event. She also thought that AXA was entitled to apply the excesses it had as they accorded with the policy terms. Mr 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 don't uphold Mr B's complaint. I've explained why under the headings below. In doing so I haven't addressed each and every one of the submissions Mr B has made. That's not intended to be disrespectful to him- rather it represents the informal nature of the service we provide.

Piano

The advice AXA took in respect of the piano was it was beyond restoration. The claim was valued at between £3,000-£3,500. It was noted in the advice that this type of piano was no longer made and that it was at the bottom end of the market. They recommended a valuation of £3,250 on that basis. At the time AXA offered Mr B £3,000 in respect of his claim for damage to the piano. Mr B says he didn't accept this amount, but AXA says he didn't object to it either. Mr B has asked for evidence of his acceptance of this amount. I don't have anything specific from Mr B accepting the sum offered, but I don't think that's necessary for

me to determine the issue.

AXA's position is that they would always offer the lowest amount given on a valuation because that represents the indemnity they're offering. As such they offered and paid Mr B £3,000 in respect of his claim. It wasn't until eighteen months after AXA's loss adjuster told Mr B what they were offering him in respect of this and after payment was made, that Mr B sought a revised payment of £3,200 plus VAT as well as the cost of transport of the piano. AXA declined to pay anything further.

Mr B has since produced something from his own expert to say the piano could be repaired at a cost of over £5,000. I've considered this and everything Mr B has said, including the fact that he can't now replace the piano because it's no longer available, but I don't think AXA need to do anything further. The policy terms cover accidental damage to Mr B's contents in the property, subject to an excess of £100. The policy also goes on to say:

"Your insurer will at their option repair, reinstate or replace the lost or damaged property, subject to the appropriate excess...your insurer is entitled to assess your claim based on our, an approved supplier's or loss adjuster's view and interpretation."

I'm satisfied that AXA acted within their policy terms when considering everything Mr B had said. And although I appreciate why Mr B would prefer for his piano to be repaired by his own expert, I can't say AXA need to do this because the cost of doing so considerably outweighs the quotation they obtained. The sum AXA have offered is in line with that. And although I appreciate they could have offered Mr B £200 more, they weren't obliged to do so.

Policy excesses

From what I've seen, AXA's final position was that they had agreed to apply eleven excesses to the claims made by Mr B which are numerous and span a number of items and rooms.

The policy terms say that Mr B needs to pay an excess for *"The first amount of any claim for which you are responsible."* So, the excesses payable are in relation to each individual claim. That means that Mr B would be paying an excess in relation to each individual item of damage he was claiming for.

Mr B says that AXA agreed to deal with his claims by area and that there were four areas of damage which reflected the number of rooms they related to and as such only four excesses are applicable. He's asked AXA for a transcript of the telephone conversation he says he had with them about this. Whilst I don't have a copy of the transcript, I do have a telephone note of the call Mr B might be referring to. That note is dated January 2021 and says:

"Call from insured to advise he has found more damage. He is currently abroad and was initially made aware of the original areas of damage by the managing agent, who sent him pictures when the tenants had moved out. Someone has since gone in to start rectifying the damage and made insured aware of more areas of damage including ink marks on the sofa, torn curtain linings, damage to a divan bed and staining on the back of a leather chair."

There are already 4 ongoing claims for damage that was noticed when the tenants moved out: carpets, drawing on walls, glass in the porch and for the hob."

ILL are instructed to deal with the carpet claim, and BVS dealing with the other three. I have agreed to appoint a loss adjuster to deal with all areas of damage, who will then report back to us to advise how many claims/how many excesses should apply."

From what I can see, the note indicates that AXA were intending to appoint their loss adjuster to determine how the excesses should be applied. The loss adjuster recommended that each incident be treated as a separate claim with a separate excess as they resulted from separate acts of damage during the course of Mr B's tenant's five-year tenancy. And whilst the claims were grouped together into four areas or rooms, each claim for damage was treated separately. That amounted to fifteen excesses being payable. Despite that AXA agreed to reduce the number of excesses payable down by four because they were conscious of the impact this would have on Mr B's future premiums, and they thought the amount he had to pay was excessive. I think this was reasonable in the circumstances and goes beyond what AXA were required to do in accordance with the policy terms. So, I won't be asking them to do anything more.

Finally, I know Mr B wants a legal determination of the policy terms that apply to his claims. He isn't obliged to accept the findings in this decision. If he chooses not to, he is free to pursue the matter through the Courts. For the avoidance of doubt, my view of his claims would be unlikely to be affected by a legal opinion because the interpretation of the policy terms is a matter for this Service to determine.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 20 December 2023.

Lale Hussein-Venn
Ombudsman