

## **The complaint**

Mrs C complains about Amtrust Europe Limited's (Amtrust) handling of claims she made under her building warranty.

## **What happened**

In 2014, Mrs C bought a new build property and took out a warranty. While she says she expected some snagging issues with a new build, in her opinion the work needed on the property was so extensive, it should never have been signed off as complete and ready for her family to move into.

In 2016, Amtrust took over the claim. It responded to Mrs C's complaints. In the final response letter of October 2020, it accepted the claim hadn't been handled well, and offered Mrs C £750. Mrs C said this wasn't sufficient to reflect the stress and inconvenience her family experienced, or the hundreds of pieces of correspondence taken to get the claim resolved.

Mrs C referred her complaint to this service. Our investigator said there were some complaints made by Mrs C that couldn't be considered because they hadn't been referred to us in time. But of those the investigator could consider, he thought the compensation offered by Amtrust wasn't sufficient. He recommended this be increased by £1,000. Amtrust accepted the investigator's conclusion but Mrs C didn't. She considered the compensation ought to be significantly higher.

## **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.

At this point, it's helpful for me to clarify that whilst I've considered all the available evidence and arguments, my background summary and final decision focuses on what I consider to be the most relevant issues in this complaint. This isn't intended as a discourtesy to Mrs C or Amtrust. Rather it's a reflection of the informal nature of this service.

I've considered Mrs C's views we should be able to consider if the complaint about the property being signed off. However, I've agreed here with the conclusion our investigator reached in that the signing off of the property is not a regulated activity.

The rules governing the types of complaint our service can look at are set out in law and are also set out by the Financial Conduct Authority ("FCA"), within their dispute resolutions rules (DISP). Essentially, rule 2.3.1 R sets out our compulsory jurisdiction relates to regulated activities. It goes on to define those regulated activities.

Mrs C says that she considers two of the regulated activities referring to home purchase plans mean this service should be able to consider whether her property should be signed off. But I don't agree. Whether a new build property meets the required building and planning regulations is not the same as the regulated activities of arranging (bringing about) or

making arrangements with a view to a home purchase plan as she considers. It follows, I'll only be considering whether the distress and inconvenience caused

### *Impact on Mrs C*

As the claim itself has now been resolved, what I now need to consider is Amtrust's handling of the claim. Amtrust had paid Mrs C £750. It said this payment was made in recognition of the "*obvious inconvenience and stress experienced through severe delays and disruption due to the complexity of the claim*".

It's helpful for me to start by clarifying the regulated activity I'm considering here is carrying out a contract of insurance. Until October 2016, the developer was responsible for putting right any defects identified. This first phase is referred to as the conciliation phase. It ended in October 2016, when Amtrust then took over the claim.

The claim wasn't resolved until October 2020. Amtrust has provided its claim notes, but no further explanation as to why it considers the claim's resolution took such a long time. It's clear from reviewing the notes that some issues were identified during the remedial works. But some issues, like the boiler, were raised by Mrs C early on.

Mrs C was in almost constant contact with Amtrust to try and move the claim forward. There were several people at Amtrust, and its contractors, involved with the claim, and I can see there were occasions where delays seemed to be unavoidable – such as the original contractor no longer being able to do the works. But there is no denying that from the point Amtrust stepped in to manage the claim, it took a significantly long time to be resolved.

In order for the remedial works to be completed, Mrs C and her family moved out of their home for several months, returning in September 2018. And I think what would have caused significant disappointment and frustration for Mrs C was at the point they moved back into the property, they discovered there were still problems that were unresolved. I understand that Mrs C found this very difficult and disappointing at the time. And some of these issues seem may have been avoidable.

I note that having been out of their home for several months, they returned to find a smell of sewage, and further problems with the windows. A key example of the works that were outstanding at the point the several of the windows replaced during the remedial works had drafts. I think it absolutely reasonable Mrs C should have expected for all of these issues should have been quality checked and identified issues resolved before her family moved back in. As it was, almost a year after moving back in, seven windows were identified as leaking.

Another example Mrs C has talked about was the boiler. Mrs C says she was told by a third-party company in 2014 the boiler was too small for the house, but Amtrust disregarded this. I can see this is mentioned frequently in the notes. These indicated that, contrary to what Mrs C considers, Amtrust carried out some checks to determine if the boiler was of a satisfactory size for the property. The boiler did end up being replaced for a larger one. Amtrust hasn't provided a substantive explanation as to why it took this step so long after Mrs C first raised this issue. On this basis, I've concluded this is a key example of where Mrs C says the right course of action was not taken at the earliest opportunity.

That's not to say that Amtrust didn't take steps to keep Mrs C updated – there are clear examples of where it did proactively contact her to keep her updated. And this was a complex claim with a number of issues to be resolved. The starting point of Mrs C having to raise the claim was beyond Amtrust's control. However, I think Amtrust could have done

more to effectively manage this claim and reduce the impact this complex and long running matter had on Mrs C.

I'm satisfied Amtrust's handling of the claim impacted Mrs C. I think it's important here that I clarify there isn't a formula for making an award for the distress and inconvenience experienced by a consumer. Having reflected on the handling of the claim between October 2016 and October 2020, I don't consider Amtrust's initial award of £750 to be sufficient. However, for the reasons I've given, I consider a total payment of £1,750 fairly reflects the distress and inconvenience that Mrs C experienced between October 2016 and October 2020 for those issues that I have been able to consider.

### **My final decision**

I uphold this complaint. I require Amtrust Europe Limited to pay Mrs C a total of £1,750 for the distress and inconvenience experienced, less any payments already made.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 2 March 2022.

Emma Hawkins

**Ombudsman**