

The complaint

Mr M complains about how Amtrust Europe Limited dealt with his claim against his legal expenses insurance policy. Reference to Amtrust includes its agents.

What happened

The details of this complaint are well known to both parties, so I won't repeat them again here in full. In summary, Mr M has legal expenses insurance as an optional addition to his home insurance policy. In July 2021, Mr M made a claim against his policy. He wanted to issue proceedings against a utility provider in relation to its registration of negative information on his credit file. Amtrust instructed its panel solicitors to assess Mr M's claim.

The panel solicitors said that Mr M's claim isn't covered by his policy. They said that the only possible section of the policy that could apply is the one relating to a contract dispute, but Mr M doesn't have a contract with the utility provider as it provides services under statute, not contract. The panel solicitors said that, in any event, Mr M's claim was unlikely to succeed as the utility provider said that it shares information with credit reference agencies.

Mr M complained to Amtrust about the poor service he received from its panel solicitors. Amtrust told Mr M that if he disagreed with the advice of its panel solicitors he could provide any new information or documentation not already provided or submit an assessment from a suitably qualified solicitor of his own choice. There were further exchanges between Mr M, Amtrust and the panel solicitors. Mr M pursued his complaint.

One of our investigators looked at what had happened. She didn't recommend that the complaint be upheld. The investigator said that Amtrust was entitled to rely on the advice of its panel solicitors.

Mr M didn't agree with the investigator. He said that it's important that we listen to the recordings of the phone calls he made to Amtrust which will show poor levels of service from the panel solicitors.

The investigator made enquires of Amtrust about the calls. It said that there are many calls and it wasn't clear how the calls would show how long the panel solicitors took and how they handled the claim.

The investigator considered the matter again. She thought that listening to the calls wouldn't change her view as Amtrust was entitled to rely on the panel solicitors' opinion. Mr M didn't agree and thinks that this service should listen to his phone calls with Amtrust.

As there was no agreement between the parties, 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.

It's clear and quite understandable that Mr M has strong feelings about this matter. I've considered carefully all that's been said and provided and taken it all into consideration when making my decision. I trust that Mr M won't take as a discourtesy that I concentrate on what I think is the central issue in the case, that is, whether Amtrust acted fairly and reasonably in declining his claim against his policy.

The relevant rules and industry guidance say that Amtrust has a responsibility to handle claims promptly and fairly and it shouldn't reject a claim unreasonably. I'm not upholding Mr M's complaint because I don't think that Amtrust treated him unfairly. I say that because:

- Insurance policies aren't designed to cover every eventuality or situation. An insurer will decide what risks it's willing to cover and set these out in the terms and conditions of the policy document. The onus is on the consumer to show that their claim falls under one of the agreed areas of cover within the policy.
- Amtrust appointed its panel solicitors to assess Mr M's claim. We don't hold insurers responsible for the actions of panel solicitors. That's because panel solicitors are independent legal experts with their own regulator and complaints body. But I can consider how Amtrust dealt with Mr M's claim against his policy.
- Amtrust is able to rely on the legal advice and opinions provided by a suitably qualified lawyer, provided that the advice and opinions are not obviously wholly incorrect when viewed from the perspective of a lay person.
- I've considered the opinion provided by Amtrust's panel solicitors in this case. The opinion was written by a paralegal supervised by an associate solicitor and subsequently considered by a partner in the firm. The advice was that Mr M's claim against the utility provider didn't come within the terms of his policy. The panel solicitors said that the only part of the policy that could potentially cover the dispute is the part covering contract disputes. But Mr M didn't have a contract with the utility provider, as it provided its services under statute, not contract. The panel solicitors said that, in any event, Mr M's claim would be unlikely to succeed on its merits. I think that Amtrust was entitled to rely on its panel solicitors' advice. So, I don't think that Amtrust was at fault in declining Mr M's claim.
- Mr M has complained about delay in dealing with his claim. As I've said above, I'm looking at whether Amtrust made errors in its handling of Mr M's claim. Amtrust received Mr M's claim on 6 July 2021. On 13 July 2021, Amtrust instructed its panel solicitors.
- The panel solicitors had difficulty reading some of Mr M's handwritten documents and on 19 July 2021, it asked for documents in another format. Amtrust conveyed that in a phone call to Mr M on 21 July 2021 and he subsequently read the handwritten documents to Amtrust who transcribed what he said. On 23 July 2021, Amtrust provided the transcript to its panel solicitors. On 26 July 2021, Mr M called Amtrust with amendments to the transcript, which Amtrust conveyed to its panel solicitors. In early August 2021, there were further exchanges between the panel solicitors and Amtrust about the documents. The panel solicitors provided their advice to Mr M in a letter dated 25 August 2021.

- I don't think that Amtrust delayed matters unduly. I've seen that it prompted its panel solicitors for a response in a timely way. It appears that there was some delay on the panel solicitors' part as a result of illness and annual leave, but I don't think that Amtrust should have done anything differently in its handling of its instructions to the panel solicitors.
- Mr M doesn't accept the panel solicitors' opinion. Amtrust has explained to Mr M that he could provide any new information or documentation not already provided or submit an assessment from a suitably qualified solicitor of his own choice and at his expense. If that assessment was positive, it would arrange for a barrister to give an opinion. I think that Amtrust acted fairly in setting out the options available to Mr M.
- I've seen Amtrust's notes of its conversations with both Mr M and its panel solicitors. I appreciate that Mr M considers that I should listen to the recordings of his phone calls with Amtrust. I don't think it's necessary to do so for the fair resolution of this complaint. That's because it wouldn't alter the outcome here. It remains the case that Amtrust was entitled to rely on its panel solicitor's opinion that Mr M's claim doesn't come within the terms of the policy.

For these reasons, I don't uphold Mr M's complaint.

My final decision

My final decision is that I don't uphold Mr M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 11 August 2022.

Louise Povey
Ombudsman