

## **The complaint**

Miss C and Mr S complain that AmTrust Europe (“AmTrust”) has treated them unfairly in relation to their buildings warranty.

## **What happened**

The background of this complaint is well known to all parties, so I’ve summarised events.

- In June 2019 Miss C and Mr S purchased a new build property which included an AmTrust warranty.
- Miss C and Mr S raised concerns about damage to the property and AmTrust considered this under its conciliation scheme producing a technical report in August 2020 outlining the issues it identified as defects and those which required further investigation. In August 2021 a second technical report was produced.
- Miss C and Mr S raised concerns about a range of issues, including specific defects, data protection, policy exclusions, claims handling amongst others. The complaint was brought to this Service and a final decision was issued.
- A further complaint was made about events and AmTrust’s claims handling that followed. AmTrust answered this complaint in December 2021. This was also brought to this Service and a final decision has been issued separately.
- In January 2022, Miss C and Mr S raised another complaint about outstanding defects. They listed a range of items highlighted in the technical reports that they say were identified as issues and not resolved by the property’s developer and that AmTrust should’ve stepped in in line with the warranty. They asked AmTrust for £3,291 to account for lost wages, administration and distress and inconvenience.
- Our Investigator looked into things. She said this Service could only consider defects which were already accepted by AmTrust. And for the issues that were accepted as defects, AmTrust hadn’t stepped in when the developer failed to act and the claim did not progress. She directed AmTrust to pay £650 compensation, and either cash settle for all accepted defects or arrange for the remaining repairs to be carried out. And this should be done within one month of acceptance by both parties.
- AmTrust responded to say it agreed. But Miss C and Mr S didn’t, in summary:
  - Compensation should be increased taking into account the number of defects present and unresolved, as well as the time, efforts and stress AmTrust had caused them, including extensive back and forth correspondence. The £650 would also not act as a deterrent for AmTrust, nor compensate them for the quality of the property they’ve had to live in.
  - They had missed many appointments due to issues with the developer, and these matters would’ve been avoided if AmTrust had stepped in earlier. And administration costs they’ve incurred in bringing their complaint.
  - They request a written apology from AmTrust that recognises its failings. And for this Service to recognise AmTrust’s poor complaint handling.

- Miss C and Mr S raised concerns about the information provided to them after the warranty was taken out. This matter will be considered separately by this Service in a complaint they've raised about the mis-selling of the warranty.

Our Investigator considered these points but didn't change her mind. So, the complaint has been passed to me for an Ombudsman's final 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.

Having done so, I'm upholding this complaint. I'll explain why.

- My role as an Ombudsman at this Service requires me to say how I think a complaint should be resolved quickly and with minimal formality. That means I'll focus on what I consider to be the crux of the complaint. Where I don't comment on every point made by the parties, that's not to say I haven't seen or considered them, it's just I don't consider it necessary to specifically reference them in reaching my decision.
- The crux of this complaint is the impact of AmTrust's inaction on Miss C and Mr S, and a way forward with the outstanding defects that are still unresolved.
- Following our Investigator's view, AmTrust has accepted to either cash settle the remaining identified defects or arrange for necessary repairs/works for such defects within a month of Miss C and Mr S's acceptance. As our Investigator has outlined, any such settlement or repairs will need to allow for full effective and lasting repairs, and factor in any temporary works or repairs that may have already taken place. I think this is a reasonable solution and will hopefully bring this matter to a close for Miss C and Mr S, so I will direct it to do this.
- So, I'll turn to compensation. In this complaint I want to be clear I'm just considering the issues that are outstanding, and that I'm not compensating for any matters that have been previously decided with this Service.
- Miss C and Mr S have no doubt had a difficult time throughout this claim. And they've provided a detailed account of the impact on their wellbeing, and time.
- AmTrust has now accepted it should've intervened earlier than it did on the defects in question. So, it's clear to me that it is responsible for many delays in relation to these specific defects. And in reaching my decision, I've taken into account all of the factors Miss C and Mr S have described about the extensive time spent dealing with this claim, and the impact it has had on their lives.
- Miss C and Mr S have argued the actions, or inaction, of the developer across this time in relation to these matters should be directly attributable to AmTrust. And while I hold it responsible for delays in the claim's progression, I don't think it follows that it should be held entirely responsible for each and every of the missed appointments or frustrations caused by the developer or developer's agents that Miss C and Mr S have detailed. I say this as the developer is a separate entity to AmTrust.
- I also want to be clear any compensatory award directed by this Service is not intended to act as a deterrent to a firm – it is intended to reflect the distress and inconvenience in the particular circumstances.
- Taking everything into account - I'm satisfied an award of £650 compensation is fair and reasonable in all the circumstances of this complaint, and recognises the delays caused by AmTrust not intervening earlier than it has.

## **My final decision**

For the above reasons, I'm upholding this complaint. AmTrust Europe Limited must:

- Pay Miss C and Mr S £650 in compensation for the distress and inconvenience it has caused them in relation to the outstanding defects under this complaint.
- For the remaining defects in question under this complaint, AmTrust must either cash settle these matters in line with the policy terms, or arrange for the works to be carried out promptly. And within a month of receiving Miss C and Mr S's acceptance of this decision, AmTrust must be taking forward either of the above options.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C and Mr S to accept or reject my decision before 19 December 2022.

Jack Baldry  
**Ombudsman**