

The complaint

Miss C has complained about her furniture warranty provider Amtrust Europe Limited regarding a claim she made for accidental staining and damage.

Amtrust is the insurer. But the policy is marketed and sold under a different name. Amtrust is responsible for claim outcomes and the technician(s) which attended Miss C's home. So my decision will refer only to Amtrust.

What happened

Miss C took out a warranty when purchasing some furniture – two three-seater sofas and a footstool. In August 2022 she made a claim to Amtrust reporting a cut to the arm on one sofa and staining “on sofa and footstool”. One photo of each was provided within the claim form.

In September 2022 a technician visited to assess the damage. He considered the sofa with the cut in the arm (“sofa1”) and the footstool. He noted the staining had been present for a while, with the footstool suffering overlaid staining. He reported to Amtrust. It subsequently agreed with Miss C to recover the arm that had been cut and to resolve the staining.

It took a little while for the parts to arrive to recover the arm. The technician attended to do that job and Miss C asked him about cleaning the stains. He said he had only been sent to recover the arm. He spoke to Amtrust whilst with Miss C. He told Amtrust that both sofas were stained and would need a complete clean. He subsequently made a report to Amtrust and Amtrust then told Miss C it was declining her claim for staining. It felt the stains had been allowed to build up over a period of time and likely weren't all caused in one incident. Miss C was unhappy, she said that simply wasn't the case. She also noted damage to the footstool which she said hadn't been there prior to the second visit by Amtrust's technician (a small tear in the fabric).

Amtrust said it had fairly declined the claim given the available evidence and the terms of the policy. Miss C remained unhappy and complained to the Financial Ombudsman Service.

Our Investigator asked Amtrust about the tear on the footstool. It said its technician denied having caused damage.

Our Investigator felt that the complaint should be upheld. That Amtrust should be cleaning the sofas and the footstool, as well as repairing the tear on the footstool. Amtrust said it disagreed; it was entitled to rely on the expert testimony of the technician(s) and this showed the staining fell outside the cover offered by the policy. The complaint was referred to me for an Ombudsman's consideration.

I felt it should be upheld – but my views on the complaint differed to those expressed by our Investigator. I issued a provisional decision to share my views with both parties and allow them a chance to comment before my final decision was made. And our Investigator provided Miss C with a copy of her original claim form.

Amtrust did not reply to my findings. Miss C said she thought she had sent the photo of the second sofa in as part of the original claim. She maintained that Amtrust's technician damaged the footstool and it clearly was not damaged in this way on the original photo.

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.

I said provisionally:

"Miss C made a claim to Amtrust in August 2022. At that time she referred to a cut on a sofa arm and staining "on sofa and footstool". She did not say staining on both sofas, or refer to sofas in the plural and she uploaded two photos – one which is clearly a sofa (sofa1) and one of the footstool. When Amtrust's technician went out to assess the damage his report shows that he considered sofa1 and the footstool, noting staining to both.

I think it's fair to say that the technician at that time was not convinced the staining would be covered by the policy in place. But Amtrust did not decline the claim at that stage. In fact, when Miss C called it in October to ask what was happening, Amtrust confirmed that the arm would be recovered and, at the same time, the staining would be dealt with by cleaning. So I don't think Amtrust can fairly or reasonably go back on that later. Especially not given that it was several months later before Amtrust changed its mind. So Amtrust, in my view, fairly and reasonably has to act to resolve the staining on sofa1 and the footstool. If those stains won't respond to cleaning now, I understand that is possible due to the time that has passed, Amtrust will have to consider other alternatives to resolving the stains.

I'm not going to require Amtrust to do anything regarding the other sofa though. I appreciate that may seem odd to Miss C. But Miss C, in August 2022, did not claim for the second sofa. And in September when the staining was initially considered only the footstool and sofa1 were considered by the technician. Because those were what the claim had been made in respect of. It was only when the technician, during the second visit noted stains on the second sofa, that this sofa began to be mentioned as part of the claim. It's possible that Miss C had meant to claim for that one as well, but it isn't clear to me – because the second sofa was only mentioned several months later – that it was likely damaged as part of the incident claimed for in August 2022. So I can't reasonably say Amtrust accepted liability for that sofa in the same way it did for sofa1 and the footstool.

I know there is also, what has been referred to, as a small tear in the footstool. It doesn't look like a full cut or rip such as was on the sofa arm. Rather it looks like something sharp has caught on the fabric. Miss C thinks the technician did it as he had tools around. But the technician says he took care whilst in Miss C's home and didn't have tools (used for recovering the arm of sofa1) near the stool. I'm not persuaded I can fairly find the technician did this. I realise Miss C hadn't noticed the damage before – but that isn't enough evidence to make me think the technician most likely acted carelessly in the home to cause the damage. Especially not when, it seems to me, damage like this could be caused by any number of things during everyday use.

With both the second sofa and the small tear in the footstool, Miss C could make further claims to Amtrust if she wishes. Bearing in mind that Amtrust is yet to see if the stains on the footstool can be resolved by cleaning. I don't know what Amtrust's answer will be regarding any further claims but if Miss C is unhappy about it, she could make a further complaint.

Miss C had to wait several months for the arm on sofa1 to be recovered. And despite Amtrust having explained to her that sofa1 and the footstool would be cleaned when the

recovering was done, a mix-up meant the technician did not go prepared to do that work. With Amtrust then refusing to do the work it had agreed to do months earlier. I accept this was frustrating and disappointing for Miss C. I know Amtrust has offered £100 compensation, I think it should pay £200 in total in the circumstances here.”

I note that Miss C believes the second sofa was include as part of the original claim – but that is not supported by the claim form. I can’t reasonably require Amtrust to include the second sofa as part of this claim when it wasn’t actually claimed for.

When I made my provisional decision, I did closely consider all the available photos of the footstool. But I also had to bear in mind that the visits were a few months apart. Further, whilst I know that Miss C firmly believes the technician did this damage by being careless with his tools, the technician has denied that. For me to find Amtrust is liable outside of the policy for the footstool, I would have to be satisfied that the damage was most likely caused by the technician. That is not the case here.

My view on the complaint hasn’t changed. As such, my provisional findings, along with my comments here, are those of this, my final decision.

Putting things right

I require Amtrust to:

- Clean sofa1 and the footstool to resolve the staining.
- If cleaning does not resolve the staining, look at alternatives to satisfactorily restore that sofa and the footstool.
- Pay Miss C a total of £200 compensation. If £100 has been paid already then it now only needs to pay the £100 remaining.

My final decision

I uphold this complaint. I require Amtrust Europe Limited to provide the redress set out above at “Putting things right”.

Under the rules of the Financial Ombudsman Service, I’m required to ask Miss C to accept or reject my decision before 29 September 2023.

Fiona Robinson
Ombudsman