

## **The complaint**

Mr and Mrs H complain Amtrust Europe Limited unfairly caused them to raise a claim on their self-build warranty policy, when they didn't need to.

Any reference to Amtrust includes its agents.

## **What happened**

Mr and Mrs H had a building warranty with Amtrust. In 2023, they had some issues with their roof, and had noticed water drips, but didn't know where they were coming from. They say they tried to contact the manufacturer to claim under its warranty, but it wasn't engaging, so they contacted Amtrust to discuss their options. They say Amtrust refused to discuss any issues with the roof until Mr and Mrs H started a claim and produced a surveyor's report, which cost them £1,200.

Mr and Mrs H complained about Amtrust's approach; they said if Amtrust had just spoken to them, rather than insisting on a report being provided, this cost would have been avoided, and so Amtrust should reimburse what they paid for it. It said other insurers had provided more support in similar circumstances than Amtrust.

Amtrust didn't think it had acted unfairly. It said it is a general term of insurance that the policyholder, in the first instance, to show they likely have a valid claim. It said Amtrust needed more information to determine the defect, and so the surveyor's report was needed to do that.

Unhappy with Amtrust's response, Mr and Mrs H brought their complaint to the Financial Ombudsman Service. Our Investigator didn't think Amtrust needed to reimburse Mr and Mrs H for the report. She said it was ultimately their decision to get the report and start the claims process. She thought Amtrust had followed its procedures by asking Mr and Mrs H to start a claim.

Mr and Mrs H didn't accept that. They said all they wanted from Amtrust was confirmation of what support it could provide if the manufacturer still refused to correspond with them, and whether it could put pressure on them. They said they were trying to sell the property, so given the urgency of the situation, they felt they had no choice but to initiate the claim, but it shouldn't have been needed to do so to answer this simple question.

Mr and Mrs H asked for an Ombudsman to review the matter, so it has come 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.

Mr and Mrs H say they contacted Amtrust to ask what support they would get from it if the manufacturer didn't resolve the issues under the manufacturing warranty. They also said they wanted clarity on what was covered and how Amtrust might help should the manufacturer not honour the warranty. They said it should have been able to answer this without having to make a formal claim as they're procedural questions.

Mr and Mrs H's warranty covers 'major damage' which is defined amongst other things as "*a condition requiring immediate remedial action to prevent actual destruction of or physical damage to any portion of the Housing Unit...caused by a defective the design, workmanship, materials or components of the structure or waterproofing elements of the waterproof envelope*"

I'm satisfied that any issues with the roof leaking could potentially be covered by this, but Mr and Mrs H didn't know what the problem was, or why it was happening. So I think it was reasonable for Amtrust to ask Mr and Mrs H to start a claim in order for it to assess whether it would cover the cost of any repairs, given the issues he was facing with the manufacturer. Because on the face of it, any major damage is covered if it is caused by defective design or workmanship.

I understand Mr and Mrs H's point, but I don't consider it would have been appropriate for Amtrust to confirm that the warranty would step in, if the manufacturer failed to respond. Because it hadn't assessed what had happened against the policy terms. The damage could have been down to issues not related to poor workmanship or design.

I don't agree with Mr and Mrs H that they only asked procedural questions. Asking if Amtrust could put pressure on the manufacturer might be more of a procedural one, i.e. does Amtrust have a process of supporting its customers to pursue other businesses. But ultimately, the policy terms say Amtrust will take over pursuing a claim against other parties in the event of a valid claim. And it didn't know if there was one. And if Mr and Mrs H wanted to know if Amtrust would respond if the manufacturer didn't, then I think it reasonably needed to assess the problem to see if it was covered under the warranty.

I can see Mr and Mrs H raised the claim at the end of March, and it took around a month for Amtrust to confirm it would need them to provide a Surveyor report. I can't see why it would take that long for Amtrust to decide one is needed. It doesn't seem to have undertaken any enquiries other than reviewing the claim form submitted by Mr and Mrs H. So I can understand Mr and Mrs H's frustration with this delay, especially given they were in the process of a house sale which was understandably stressful. But having considered everything, whilst I think Amtrust could have confirmed what it needed from Mr and Mrs H sooner, I'm not satisfied it would be fair for it to reimburse them the cost of the surveyor's report.

It's important to set out that I haven't assessed, as part of this complaint, Amtrust's decision to decline the damage as covered by the warranty. I can't see Mr and Mrs H has made a complaint about that. And I haven't seen the report Mr and Mrs H provided Amtrust. However, it appears the report confirmed issues had been ongoing with the roof for some time, and that because the manufacturer had attended on previous occasions to carry out repairs, the Amtrust warranty wouldn't respond. This isn't the sort of information Amtrust would have reasonably known when an enquiry is made, so it supports that it was reasonable to ask for further investigations to be carried out. But as set out above, I'm not deciding that its decision to decline the claim was fair as part of this complaint.

Mr and Mrs H have said other buildings insurers provided more assistance to them, for example their home insurer attended the property to assess the damage under their policy, without them having to pay. I appreciate that's the case, but the starting point for any insurance policy is still that it is for Mr and Mrs H to demonstrate they have a valid claim. So I'm not persuaded Amtrust treated them unfairly by asking them to demonstrate that their loss would be covered by the warranty.

I also consider that Mr and Mrs H having the surveyor's report has other uses for them, beyond Amtrust deciding cover under the warranty. So whilst I can understand their frustration with the process, I don't think ultimately Amtrust has unfairly caused Mr and Mrs H a loss.

### **My final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H and Mr H to accept or reject my decision before 13 June 2024.

Michelle Henderson  
**Ombudsman**