

The complaint

Mr and Mrs B complain about the way Amtrust Europe Limited (“Amtrust”) has handled a claim made under their building warranty.

What happened

In 2020, the external render of Mr and Mrs B’s property began to bulge and crack in various places. Mr and Mrs B reported this to their warranty provider, Amtrust, and an inspection took place to enable a schedule of works to be prepared.

Works continued to take place throughout 2021, 2022 and 2023 on three other properties as well as Mr and Mrs B’s. Mr and Mrs B say their home became a building site, which caused major disruption – particularly to Mrs B, who has a disability and experienced the constant inconvenience of the noise and repeated demands which came with having the issue rectified. Mr and Mrs B say that the contractor acted with total disregard and this caused Mrs B high levels of anxiety and stress.

In addition to this, and despite the time taken to carry out the works, Mr and Mrs B say that all the required work wasn’t completed and there were issues with the work that had been carried out. They say works which were included in the original schedule were omitted without adequate explanation. And they also complained of defective workmanship and defective materials used in the remedial work, as well as an inconsistent approach between the properties being rectified.

Amtrust halted works and reviewed Mr and Mrs B’s complaints. They offered compensation for distress and inconvenience and said they would cash settle the claim as the contractors had ceased trading and couldn’t carry out further repairs. Mr and Mrs B didn’t accept Amtrust’s response, so they referred their complaints to this service.

Our Investigator considered the issues and thought the complaint should be upheld. She said Amtrust should increase its offer of compensation and put right some of the problems with Mr and Mrs B’s property as well as investigate some of the others.

Neither Amtrust, nor Mr and Mrs B, accepted our Investigator’s recommendations in full, so the complaint has now 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.

Having done so, I’ve decided to uphold this complaint. I’ll explain why.

I’ve considered what Mr and Mrs B’s warranty covers. It says Amtrust will remedy defects in the “Housing Unit” – which is defined as the “Structure”, all non-load bearing elements and fixtures and fittings for which the Policyholder is responsible, as well as any “Common Parts” forming part of or providing support to the “Structure”.

Based on the policy wording, I'm satisfied that the issues Mr and Mrs B have complained of do constitute defects in the housing unit and are therefore covered under the warranty. I can't comment on the inconsistencies between the repairs on all the properties, as this would involve looking at claims made by other individuals who are not a party to this case, so I've focused my review on Mr and Mrs B's property only.

Once the contractors Amtrust used ceased trading and were unable to continue the works, Amtrust offered a cash settlement for Mr and Mrs B to have the works carried out themselves. I don't consider this a fair approach to the situation, as Amtrust had agreed to have the work carried out and had effectively entered into a repair contract with Mr and Mrs B, so it was Amtrust's responsibility to ensure that the defects were put right. As Amtrust has made a payment to Mr and Mrs B, I won't require it to arrange for the original work to be completed. But I think it caused unnecessary distress and inconvenience to Mr and Mrs B by not appointing new contractors, and by cash settling the claim instead.

I think it's likely that the contractors that did the initial repair work caused further damage for which Amtrust is liable. I'm satisfied from the information I've seen, which includes photos, that Amtrust needs to put this right by resurfacing the driveway and replacing any damaged plants and the damaged lawn. The report I've been provided with says that each patio slab should be checked for damage before this is rectified as needed, and that the hard standings should be power washed. The report also confirms that any damage to the grass caused by the scaffold feet should be rectified by reseeding the affected areas of the lawn.

Although the drive may have been protected during rectification work, and there is evidence of the moss growing before the works began, I still think Amtrust should put right the damage caused by the contractor's heavy goods vehicles. This is because I've also seen evidence of the driveway without moss growth, and I'm more persuaded by the level of detail provided by Mr and Mrs B on this point. They say the dust wasn't removed by the contractors and instead was blown from the upper levels on to the ground floor instead of being cleared away, which caused dust to wash into the driveway when it rained. They go on to say that this attacked the resin bonded gravel, which was permeable. Overall, I'm satisfied that the repeated and long term use of heavy goods vehicles on Mr and Mrs B's driveway caused damage beyond what is normally expected or can be categorised as wear and tear. And ultimately, I don't consider it fair for the driveway to be left in a state which is worse than it was before the works began. So I'll require Amtrust to either carry out the repairs or pay Mr and Mrs B to have these carried out.

Regarding the render boards, these were inspected in 2022 and the quality of finish was said to be "excellent" after inspection. Based on everything I've seen, I don't consider Amtrust needs to pay for the coating to the render boards, as the information I've seen shows that the application was completed in line with specifications.

Mr and Mrs B have said that the security glass was installed upside down – and I haven't seen anything to persuade me that this has been rectified, so I'll require Amtrust to put this right by paying for this to be done or by arranging for the rectification to be carried out.

In terms of repairs to the balcony, Mr and Mrs B have said that there was an issue between the two metals used – which the report does not support. Amtrust has agreed to look into this issue further, appointing a loss adjuster to investigate and report on liability. So I won't comment on this further as I consider this a reasonable way forward for the parties.

I'm also persuaded that Amtrust needs to look further into the PIRS to ensure this is functioning. This is because Mr B has said these have not functioned properly since Amtrust became involved. As Amtrust has agreed to look into this, it should appoint an electrical engineer to attend whilst Mr B is present, and report on findings and liability.

Mr and Mrs B have said that the back gate post is leaning away from the house. But I don't consider I've seen enough evidence for me to safely conclude that this has been caused by Amtrust's rectification works. So I won't be asking Amtrust to look into this further, but I do think it should look at the gutter, which is overflowing and this is thought to have been caused by the works. However, the contractor felt this was caused by leaf debris so this needs to be investigated. A further surveyor's report should be obtained and Amtrust should put right any damage caused as a result of the work.

I've no doubt from what Mr and Mrs B have said, that the toll this claim has taken on them has been substantial, particularly on Mrs B who has a disability and has had to endure more hardship than necessary due to the length of time the claim took to resolve, and the various problems along the way.

I have to bear in mind that a claim of this nature will always entail some, if not considerable, inconvenience – and the process can cause consumers varying levels of stress. But I think in this case, Amtrust's actions and the actions of their contractors left Mrs B feeling as though there was a distinct lack of concern for her property or wellbeing, due to the issues I've mentioned above and the delays involved.

Mr and Mrs B say they have been suffering for four years – but they would've always faced some stress and inconvenience due to ongoing rectification works, for some portion of that time. So having considered the time the claim took, and the ongoing issues and impact on Mr and Mrs B, I think £1500 is a fair and reasonable amount of compensation in the circumstances. This is because I consider Amtrust's actions have caused substantial distress and upset over a prolonged period of time lasting more than a year and that the problems caused serious disruption to daily life, Mrs B's in particular.

Putting things right

Amtrust Europe Limited must now:

- Increase the amount of compensation due to Mr and Mrs B for distress and inconvenience to £1500. It may deduct from this amount any compensation already paid to Mr and Mrs B for this particular complaint.
- Carry out the work specified in this decision, and where further investigation is required, ensure that this is carried out promptly and findings are reported clearly. Where the investigation shows that damage may have been caused due to rectification work, Amtrust Europe Limited must make Mr and Mrs B an offer to repair the damage.

My final decision

My final decision is that I uphold this complaint and I direct Amtrust Europe Limited to put things right as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B and Mr B to accept or reject my decision before 12 October 2024.

Ifrah Malik
Ombudsman