

The complaint

M, a limited company, is unhappy with how Amtrust Europe Limited (Amtrust) has handled a claim for subsidence made under their residential property insurance property.

Any references to Amtrust include their agents. M's complaint has been referred by Mr P, one of the directors, so for ease I'll refer to both Mr P and M where appropriate.

What happened

In September 2020, Mr P says they noticed movement to the property and logged a claim with Amtrust. They arranged for the property to be monitored by a loss adjuster who, after a period of time, concluded there was no further movement. In late 2023, the loss adjuster set out their scope of works for the necessary repairs. Mr P says he was told to get some quotes, which he did. The builders Mr P asked to quote said significant cracking that couldn't be filled, and a window needed to be changed. The builders also said they considered the property was still subject to some form of movement.

Mr P raised a complaint and Amtrust issued their final response in March 2024. They said the issue relating to the window was under further investigation as there was further evidence to consider. In relation to the suggestion the property was still moving, Amtrust said the only opinion provided by a subsidence expert was the one by their loss adjuster who said the property was ready to be repaired. On this basis, they wouldn't review the scope of works any further.

Unhappy with Amtrust's response, Mr P referred M's complaint to the Financial Ombudsman Service. It was considered by one of our investigators who said the decision to stop monitoring the property wasn't reasonable, given there were still signs the property was still moving. She said further monitoring should take place and both sides agreed to this. Our investigator also said it was reasonable for Amtrust not to take any further action in relation to the damaged drainage system given this was identified a year after the policy ended. She said Amtrust was willing to consider the scope of works developed by M's loss assessor and it was reasonable for Amtrust to consider a loss of rental income claim from M.

M didn't agree with this conclusion. They appointed a loss assessor who said a drainage survey should have been carried out much sooner and the damage was consistent with subsidence related movement. They also questioned how effective Amtrust's loss adjuster had been and felt the investigators position on the loss of rental income claim was unfair. Our investigator didn't alter the conclusion reached so this matter has been 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.

First, I'd like to reassure both sides that while I've summarised the background to this complaint and submissions to us, I've carefully considered all that's been said and sent. In

this decision though, I haven't commented on each point that's been made and nor do our rules require me to do so. Instead, I've focused on what I consider are the key issues.

As both sides have accepted the investigators' recommendations in relation to the monitoring, I won't be commentating on this issue any further. Instead, I'll focus on the remaining issues relating to the drainage damage, proposed repairs, and loss of rental income claim.

Drainage damage

In the first instance, I think it's helpful to clarify it's not in dispute there's damage to the underground drainage, as set out in the expert report. However, the expert report doesn't identify how the damage was caused. I appreciate M's loss assessor says the damage is because of the ground movement, but I can't see any evidence provided to support this assertion.

M's loss assessor says Amtrust ought to cover the damage to the drains under the accidental damage section of the policy as the damage hadn't occurred as a result of wear and tear. Again, I've not seen any evidence to support this conclusion. Based on the evidence provided to me, I'm not persuaded it's been shown the drains were damaged as a result of an insured event, or that an insured event occurred when Amtrust insured the property. On this basis, I'm satisfied Amtrust was entitled to decline this part of the claim.

Proposed repairs

M's loss assessor said that the approach to repairs by Amtrust's loss adjuster wasn't appropriate given the scale of the damage at the property. He supplied a number of photographs showing significant cracking and damage to the property and provided their own schedule of works.

Amtrust's loss adjuster had initially said that he considered filling and repointing the external and internal cracking, attending to plaster and decorations internally would be sufficient.

It's not in dispute the property has sustained damage. Amtrust has agreed to review the schedule of works provided by M's loss assessor and they've said they're open to reviewing the scope of works set by their own loss adjuster. However the key issue here is that before any repairs are carried out, the property needs to be found to be stable. Amtrust and M have both agreed to further monitoring. So, I'm satisfied Amtrust's intention to review both their loss adjusters and M's loss assessors schedule of works to determine what repairs are necessary is appropriate and fair in the circumstances.

Loss of rental income claim

M says they've been unable to rent part of the property out since December 2023. The policy does provide cover for loss of rental income.

As our investigator said, at present M hasn't submitted a claim for lost rent, so it's not possible to say if any position Amtrust reaches on this issue is fair and reasonable. Amtrust has said they'll consider a claim if submitted so I'd encourage M to make the claim. I appreciate M's loss assessor says the loss adjuster ought to have told M they could make a claim. I can't be certain whether any information was given to Mr P in person. However, I'm satisfied that Amtrust will consider a claim if submitted by M. If M remains unhappy with Amtrust's subsequent responses, they can consider referring a new complaint to this Service for consideration.

Putting things right

Amtrust has agreed to take action which I'm satisfied is fair and reasonable in the circumstances of this complaint. I require Amtrust to:

- Continue monitoring the property for a minimum of six months.
- Reconsider the schedule of works provided from M and their loss adjuster when the monitoring is complete.
- Consider a claim for lost rental income.

My final decision

My final decision is I'm satisfied Amtrust Europe Limited has made an offer that is fair in the circumstances of this complaint. I require Amtrust Europe Limited to take the actions outlined in the "Putting this right" section of this decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask M to accept or reject my decision before 5 March 2025.

Emma Hawkins

Ombudsman