

## **The complaint**

Mr O complains that Amtrust Europe Limited unfairly declined a claim under his legal expenses insurance policy.

Where I refer to Amtrust, this includes the actions of its agents and claims handlers for which it takes responsibility.

## **What happened**

The detailed background to this complaint is well known to both parties, so I'll only summarise the key events here.

In early 2024, Mr O was informed by his employer that his role was being made redundant. He didn't believe this was a genuine redundancy and his employers hadn't followed the correct procedure.

Mr O made a claim under his legal expenses insurance policy in relation to unfair dismissal and redundancy. He informed Amtrust that he'd received a compromise agreement from his employers, and he needed legal representation to negotiate the terms of his exit.

Amtrust declined the claim. It said the policy covers the pursuit of legal action, but that the negotiation of a compromise agreement wouldn't amount to such.

Mr O raised a complaint, which he brought to our Service. He says a claim is covered unless excluded and there is no exclusion applicable to his claim. And that as many legal disputes settle out of court, it's not reasonable for claims to only be covered when they reach court.

Our Investigator didn't uphold the complaint. He was satisfied Amtrust had declined the claim in accordance with the policy terms and hadn't acted unfairly. As Mr O didn't agree, the complaint 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.

I'd like to reassure Mr O that whilst I've condensed what he's told us in far less detail and in my own words, I've read and considered all his submissions in full. I'm satisfied I've captured the essence of the complaint and I don't need to comment on every point individually, or possibly in the level of detail he'd like, in order to reach my decision. This isn't meant as a discourtesy, but simply reflects the informal nature of our service.

When making a claim under an insurance policy, the onus is on the policyholder to prove they have a valid claim. If they do, the insurer should cover the claim unless it can prove that a policy condition or exclusion applies.

The terms and conditions of Mr O's legal expenses insurance policy says:

*“Employment Disputes*

*What is insured:*

*Standard advisers’ costs to pursue a legal action against an employer, prospective employer, or ex-employer, arising from a dispute relating to your contract of employment or related statutory rights.*

*A dispute is deemed to have occurred once all internal dismissal, disciplinary and grievance procedures have been or ought to have been concluded.”*

I understand that Mr O’s claim was for unfair dismissal, discrimination, and unpaid bonuses which is something the policy provides cover for under this section. But he’d been offered a compromise agreement by his employers to resolve the dispute and he was simply looking for assistance to negotiate the terms of it.

The policy is clear that cover is in relation to legal action, which is defined by the policy as:

*“Legal Action(s)*

- a) The pursuit or defence of civil legal cases for damages and/or injunctions (interdicts in Scotland) and/or specific performance (specific implement in Scotland) or*
- b) The defence of criminal prosecutions to do with your employment, or the defence of motor prosecutions.”*

As negotiating a compromise agreement isn’t legal action, the policy doesn’t provide cover in these circumstances. Had negotiations broken down and an agreement couldn’t be reached, there would’ve been potential cover under the policy had Mr O wanted to pursue legal action. But I understand he was able to negotiate terms with his employer.

I appreciate Mr O has raised concerns that his policy only covers claims once they reach court. But that isn’t the case. His policy is clear that it will cover an employment dispute once the internal procedures are concluded.

Mr O was still employed when he submitted his claim to Amtrust, and internal procedures were ongoing. There were no grounds to pursue legal action for unfair dismissal or redundancy at that time as, officially, he hadn’t been made redundant or dismissed yet. Even if he had been, he wasn’t looking to pursue legal action. Rather, he wanted advice on a compromise agreement.

Whilst I accept Mr O’s point that there is no specific exclusion for negotiating a compromise agreement, I’m not persuaded there needs to be. No insurance policy will cover every eventuality and it isn’t feasible for it to list everything that isn’t covered. Instead, I’d expect it to list what is covered and any conditions or exclusions that relate to that cover. I’m satisfied his policy is clear that it covers the pursuit of legal action, which isn’t something Mr O wanted assistance for.

As Mr O hasn’t demonstrated that he has a valid claim under his legal expenses insurance policy, I’m satisfied Amtrust’s decision to decline the claim was fair and reasonable in the circumstances.

**My final decision**

For the reasons I’ve explained, I don’t uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 30 October 2024.

Sheryl Sibley  
**Ombudsman**