

The complaint

Ms T's complaint is about the rejection of a claim made under the legal expenses section of her home insurance policy with Amtrust Europe Limited.

Amtrust is the underwriter of this policy, *i.e.* the insurer. Part of this complaint concerns the actions of the agents it uses to deal with claims and complaints on its behalf. As Amtrust has accepted it is accountable for the actions of the agent, in my decision, any reference to Amtrust includes the actions of the agents.

What happened

Ms T contacted Amtrust in April 2024 to make a claim in relation to a dispute about the estate of her late father. Ms T says the professional trustees of the estate had not met their obligations and as a result the value of her share of the estate has been reduced. Ms T wants to take legal action against the trustees for the loss of value.

Amtrust considered the claim but rejected it, as it said the policy does not cover the claim she wants to bring. It said the legal defence section of cover only covers the defence of claims about a dispute over a will, not the pursuit of a claim, which is what Ms T wants to do. Amtrust also considered whether there might be cover under the contract section of the policy but said Ms T had no contractual relationship with the trustees, so there is no cover under this section of the policy either.

Ms T is not happy with this, as she says the policy states it covers a claim for defending her rights in regard to inheritance. Amtrust maintained its position that the claim is not covered so Ms T referred her complaint to us.

One of our Investigators looked into the matter. He did not recommend the complaint be upheld, as he was satisfied that Amtrust was entitled to reject the claim for the reasons it had.

Ms T does not accept the Investigator's assessment, so the matter has been referred to me.

Ms T has made a number of points in support of her initial complaint and in response to the Investigator. I have considered everything she has said but have summarised her main points below:

- The legal defence section of the policy is clear that it covers defence of her legal rights in relation to a dispute about a will. Nowhere does it say that she has to be threatened with legal action.
- This is a claim to defend her right to her share of the estate and any reasonable consumer would believe that they are covered.
- Amtrust has had to introduce wording and arguments that are not expressly stated in the policy to try and support its rejection of the claim. This means the policy wording must be ambiguous and as such should be construed in her favour.
- The Consumer Rights Act 2015 is important here as the term is unfair and should be interpreted in her favour.

- The policy and Amtrust's response to her claim is also in breach of the Consumer Rights Act 2015 provision that it should exercise reasonable skill and care. Amtrust is contracted to provide her with legal services, so the decision about her claim should have been made by a fully qualified lawyer but the decision was made by someone not legally qualified.
- She made clear she does not have a contract with the trustees but her claim is for negligence and there is nothing in the policy that says that negligence is not covered. Raising the contract issue as another reason to reject the claim is irrelevant.
- Amtrust said it had eight weeks to reply and was aiming for the maximum time, rather than responding to her complaint in a timely manner. As the final response to her complaint maintained the refusal of her claim, this caused undue delay. This should have been provided sooner, as no new information had to be considered.

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.

Ms T's policy with Amtrust provides cover for various legal disputes, including: employment, contract, property, personal injury, tax and legal defence.

The parties are agreed that the policy term most relevant to this case is the legal defence section, which says Amtrust will cover costs of a legal action "*to defend your legal rights... in a dispute over something left to you in a will.*"

Ms T says this term is a simple statement and clearly means she is covered, as she wants cover to defend her rights in relation to something left to her in a will. Ms T says Amtrust has introduced additional wording to reject her claim and, if those reasons are valid, then the term is ambiguous and should be construed in her favour in any event.

I can see that Ms T wants her rights to the share of her father's estate protected. However, I do not agree that this means her claim is covered. I think it is sufficiently clear that the policy only covers defending a legal claim made against her and not in protecting her rights by pursuing a legal case. I will explain why.

The policy refers to the costs of pursuing and defending legal claims. I think these words are clearly understood applying their ordinary meaning: pursuing a legal action would be when the policyholder is instigating a legal claim and legal action to defend legal rights would come about when a legal claim has been made against the policyholder.

I note the contract section of the policy states cover is for the "*costs to pursue or defend a legal action*"; the property, employment and personal injury sections cover the cost of pursuing a legal claim for those matters only and do not mention defending claims.

Pursuing a legal action and defending a legal action are different and I think the words are sufficiently clear. I do not agree that the policy needs to state that pursuing a legal case regarding an inheritance dispute was excluded because there was nothing that would reasonably suggest it might be covered in the first place. I think the policy makes clear which kind of disputes it will cover the cost of pursuing a legal claim for and which ones it will cover the cost of defending. Given the wording which I think is sufficiently clear, I do not agree that it covers the pursuit and defence of inheritance claims.

Ms T says the legal defence section of the policy also states that there is cover for defence of investigations or disciplinary hearings being brought against the policyholder. She thinks this has been conflated with the inheritance dispute section and the words "brought against"

assumed wrongly to also be relevant to the inheritance dispute section. I do not agree. I think the wording used in the section about disciplinary investigations or actions makes sense in the context of those types of matters. It is however a separate part of the cover and I see nothing that would impact the way the relevant term in this case should be interpreted.

Ms T has also said that as there is a dispute about whether her claim is covered or not means the term is not clear and should be construed in her favour. I do not agree that the fact there is a dispute by itself means the term is unfair.

Having considered everything very carefully, I think it is sufficiently clear that the defence section is to cover costs where claims are being made against the policyholder. I do not see any lack of clarity about the term. There is no other meaning of the word defend, so there is no ambiguity.

Ms T has also objected to the decision on her claim being made by a layperson and not a qualified lawyer. However, the policy terms are a matter of insurance. I do not consider that assessing whether Ms T is pursuing or defending a legal claim is a matter that requires expert legal opinion. She has confirmed that it is her that wants to pursue the action. I am therefore satisfied that Amtrust was entitled to make that decision.

Ms T has also complained about the time taken to deal with her complaint. However, complaint-handling in itself is not a regulated activity, so I cannot consider that part of her complaint.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms T to accept or reject my decision before 10 March 2025.

Harriet McCarthy
Ombudsman