

The complaint

Mr and Mrs S complain AmTrust Specialty Limited has unfairly declined a claim they made on their building warranty for a flat roof.

As Mr S has been the main correspondent for the claim and complaint, I've only referred to him in this decision.

What happened

Mr S bought a property which came with a ten-year AmTrust building warranty. The warranty started in 2015, running until July 2025. In Summer 2024 Mr S had an issue with some ridge tiles that had slipped on the roof of his property. He says when the roofer attended to reinstall those, he observed issues with the flat roof membrane. His view was that the flat roof had splits and air bubbles and was in need of replacement. He said it was likely that continuous exposure to the heat from the sun over a number of years had caused the issues noted. As such Mr S made a claim for the necessary works to the flat roof.

AmTrust assessed the claim under the Structural Insurance period, which runs from years three to ten of the policy, and having done so, it declined the claim. It said for a claim to meet under this part of the policy, there had to be evidence of "*Major Damage*" as defined by the policy. It also said and there was no evidence that "*immediate remedial action*" was required to the roof to prevent damage and as such, there was no cover under the terms.

Mr S complained about AmTrust's decision. AmTrust didn't agree to change its position, it said water ingress had not been evidenced within the property and therefore, the claim falls outside of the definition of Major Damage.

Mr S was unsatisfied with that response, he said the definition of Major Damage does not require there to be actual damage but rather envisages preventative action as falling within the definition of Major Damage. As such, Mr S referred his complaint to the Financial Ombudsman Service for an independent review.

Our Investigator thought AmTrust had reasonably declined the claim. She said whilst Mr S' roofer had said the roof was in a poor state and in need of replacing, she wasn't satisfied this meant that the threshold for Major Damage, as defined in the policy, had been met.

Mr S didn't agree with that outcome. He said he was disappointed that AmTrust hadn't assessed the roof, so it couldn't opine on the state of it. He also said his roofer had noted the roof needed replacing "as a matter of urgency" it should therefore fall within part b) of the Major Damage term, which requires the need for "immediate remedial action".

As the matter hasn't been resolved, 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.

It is a principle of insurance that it is for the insured, so in this case Mr S, to show he has suffered a loss or damage that is covered by the policy. If he can do so, then the insurer will generally need to meet the claim unless it can fairly rely on a valid exclusion to decline it. So that means it's for Mr S to show that his claim is covered by the policy. As such, the fact that

AmTrust hasn't carried out its own inspection of the roof does not mean it hasn't handled matters correctly, or that it has therefore automatically declined the claim unfairly.

Under the Structural Insurance period, Mr S is covered for "*the cost of complete or partial rebuilding or rectifying work to the Housing Unit which has been affected by **Major Damage***". Major Damage is defined as:

- a) *Destruction of or physical damage to any portion of the Housing Unit for which a Certificate of Insurance has been issued by the Underwriter.*
- b) *A condition requiring immediate remedial action to prevent actual destruction of or physical damage to any portion of the Housing Unit for which a Certificate of Insurance has been issued by the Underwriter.*

in either case caused by a defect in the design, workmanship, materials or components of:

- *the Structure; or*
- *the waterproofing elements of the Waterproof Envelope"*

Mr S says his claim falls under Section b) of major Damage because his roofer said the roof was in need of urgent replacement. But for this definition to be met, Mr S needs to show that the condition "requiring immediate remedial action" has been *caused* by a defect in the design, workmanship, materials or components.

Mr S has said that the materials used must be defective because it has not withstood the warranty period. But that doesn't, of itself, show that there was a defect in the design, workmanship or materials used. And part of the structure of the home failing within the ten-year warranty period does not mean it will automatically be covered by the warranty. The warranty, in years three to ten, will only respond in certain circumstances. It is not a guarantee that all parts of the building will last ten years or they will be replaced, for example.

Mr S' roofer said he thought it was very likely that – with the roof being south facing – continued heat exposure over the years has caused the bubbling and cracking effect. But he didn't say that the roof covering, or the material used, was defective in its design or material.

And even if it had been shown there was a defect, for a claim to be met under part b) of Major Damage, it needs to be shown that this is a condition "*requiring immediate remedial action to prevent actual destruction or physical damage*". The roofer's initial view in August 2024 was that the roof was in need of replacement "in the near future". His follow up report around five weeks later in September 2024 said the roof needed replacing as a matter of urgency. I'm not persuaded this is the same as a condition requiring immediate remedial action. The roofer hasn't, for example, said that in those five weeks there had been a degradation of the roof to such an extent that it was urgent to prevent destruction or physical damage. And there was no sign that the roof was leaking in August or September 2024. As such, I think AmTrust's position, that the roof doesn't meet the definition of Major Damage, is fair and reasonable. As such, I'm not going to require it to meet the claim.

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 S and Mr S to accept or reject my decision before 12 November 2025.

Michelle Henderson
Ombudsman