

## The complaint

Mr C says that AmTrust Specialty Limited (*'AmTrust'*) has unreasonably applied an exclusion to a claim he made under his income protection policy.

## What happened

Mr C applied for an income, mortgage and commitments protection policy through Trent-Services (Administration) Limited, trading as National Assurance. I'll hereafter refer to that business as Trent for ease of reading. Trent was the administrator for the policy. Cover began on 18 January 2023, which was provided by a different underwriting business.

The policy offers monthly benefit should Mr C become unable to work because of an accident or sickness. The policy has no waiting period, and a claim is payable for a maximum of 12 months.

In June 2023, Mr C made a successful claim for benefit under the policy, following removal of a cyst which had occurred on his tibia (knee) in April 2023.

On 20 December 2023, Trent wrote to Mr C about an impending change of insurer following its annual review. It notified Mr C that if he wished to continue the cover (with listed changes), the policy would renew on 18 January 2024 with AmTrust as the underwriter. The new policy had an increased premium, costing a further £3.45 per month.

Mr C accepted the changes, and AmTrust became the underwriter for the policy from 18 January 2024.

In June 2024, Mr C made a claim to AmTrust for income protection benefit through Trent, after undergoing surgery for debridement of his tibia and removal of another cyst in his knee – which he said was recurrence of the earlier cyst.

In October 2024, AmTrust rejected the claim. It said that after liaising with Mr C's GP, his claim concerned damage to his anterior cruciate ligament (*'ACL'*) – something he had suffered with before taking out the policy.

Mr C complained to Trent. He said that his GP had mistakenly referred to his previous ACL surgery, but his recent surgery was unrelated to that surgery. To that end, his GP reissued a medical report confirming that Mr C was making a claim following tibial tunnel debridement.

In November 2024, Trent explained that AmTrust rejected the complaint. It said that AmTrust remained of the view that the policy exclusion applied to Mr C's claim, and it could not pay out benefit for a pre-existing condition.

Mr C then brought his complaint to this service, noting he should have received three months' benefit amounting to £2,490, but AmTrust had unfairly refused his claim. He also said he had spent hours chasing both his GP and Trent in order to expedite the claim.

In the interim, Mr C supplied a further letter to Trent from his GP dated 13 January 2025.

AmTrust confirmed that this letter did not alter its view that the cyst resulted indirectly from a pre-existing condition, and that the policy clause had been fairly applied.

Our investigator didn't believe the complaint should be upheld. She felt AmTrust had fairly applied the policy exclusion, based on the medical evidence supplied. She also could not agree that AmTrust had unreasonably prolonged the claim process; in her view, it had actively chased Mr C's GP for records, and these were required to validate the claim.

Mr C disagreed with our investigator. He clarified that his primary concern now was with the sale of the policy, as he had previously thought he was dealing with National Assurance (Trent-Services), and he had complained to that business – so he had assumed that both the claim and the administration of the policy would be considered.

Our investigator explained that if Mr C had concerns about the change of underwriter from January 2024 or other administrative concerns, he needed to complaint to Trent about those. She otherwise wasn't persuaded to change her view. Mr C thereafter asked for this complaint to be referred for consideration by an ombudsman.

AmTrust had no further comments to make. The complaint has now been passed to me.

### **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 thank the parties for their patience whilst this matter has awaited review by an ombudsman.

I've fully reviewed all the information before me, including the further comments Mr C has made after our investigator's assessment. However, in reaching my findings, I've focused on what I consider to be the central issues. Our rules allow me to take this approach; it reflects the informal nature of our service, as a free alternative to the courts.

It's also important that I make the parameters of this decision clear. I will only be considering the complaint made against AmTrust – the underwriter of the policy in respect of the refusal of Mr C's claim. I understand that Mr C has now pursued a separate complaint against Trent as the administrator of his policy.

Regulatory rules require AmTrust to handle claims promptly and fairly and to not unreasonably reject a claim. My role isn't to make findings of medical fact, but rather to consider the evidence provided by the parties alongside the terms and conditions for Mr C's policy to determine whether I believe AmTrust treated him fairly and reasonably in rejecting the claim for income protection benefit.

Having done so, I agree with our investigator that this complaint should not be upheld.

Mr C's policy contains exclusion wording as follows:

#### ***"4.1.2 ACCIDENT AND SICKNESS EXCLUSIONS***

*No benefit will be payable to You if Your Accident or Sickness:*

*...*

- *[If it] results directly or indirectly from a Pre-Existing Condition (but this exclusion will not apply to a Pre-Existing Condition if You have been free from its symptoms, and have not consulted any Healthcare Professional nor*

*received any treatment for or in connection with it, for a 24 month period before Your claim)”*

And ‘pre-existing condition’ is defined as:

*“Any Sickness, condition or injury (whether diagnosed or not) about which You:*

- *Knew or should reasonably have known at the Policy Start Date; or*
- *Had seen or arranged to see a Healthcare Professional during the 12 months before the Policy Start Date.”*

The first part of the policy wording relating to pre-existing conditions doesn’t apply to Mr C, as he had consulted his GP about his knee in the 24 months preceding the June 2024 claim.

I recognise that the previous underwriter paid out on a claim for the 2023 occurrence of the cyst, following which Mr C went on to undergo additional surgery in May 2024. However, I can only look at the actions of AmTrust in the context of this complaint. That means I must consider whether, on the medical evidence before it, I believe AmTrust reached a fair conclusion that Mr C’s cyst was the result of a pre-existing condition for which Mr C sought medical assistance between 18 January 2022 and 18 January 2023 – that being the twelve months preceding the policy’s start date.

I accept that AmTrust originally misunderstood the timeline of events; Mr C’s GP has now confirmed how he has a complex history of knee issues, following an ACL injury in 2016 which was operated on the following year. However, this confusion was caused primarily by the GP, not AmTrust. And further, I note in his email of 18 October 2024, Mr C told AmTrust that *“the reference of ACL is from surgery in 2022 and prior, which I have never claimed for”*.

However, though it was not specifically ACL surgery, Mr C underwent removal of a cyst on his knee in January 2022. In respect of the 2024 claim, Mr C’s GP was asked, *“if the patient has suffered from this or any associated complaint, please give details and dates”* to which it was confirmed Mr C had undergone meniscal surgery on 27 January 2022.

The post-surgical medical evidence from Mr C’s consultant in February 2022 confirms how *“the ACL graft area was explored with a view to taking the screw out but on exploration we found a cyst, which was excised”*. And, the review pre-surgery in May 2024 set out how Mr C had suffered with recurrent swelling episodes of the tibia over the ACL wound. The plan was for debridement of the most recent cyst, which itself was a repeat of the 2023 surgery.

The procedure Mr C underwent in May 2024 was a follow-up to the prior surgeries of 2022 and 2023 - all of which involved cysts at the site of previous ACL surgery. However, the 2022 surgery took place in the twelve months preceding the policy’s start date, so this amounted to a pre-existing condition under the terms set out above. I therefore do not believe AmTrust was unfair in applying the policy wording to determine that no benefit was payable for the 2024 claim.

### **My final decision**

Though I recognise my decision won’t be what Mr C has hoped for, I am not able to uphold this complaint for the reasons I have set out above.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr C to accept or reject my decision before 1 September 2025.

Jo Storey

**Ombudsman**