

## **The complaint**

Mr and Mrs K have complained about the way AmTrust Specialty Limited (“AmTrust”) dealt with a claim they made under their building guarantee.

References to AmTrust in this decision include its appointed agents and representatives.

## **What happened**

In April 2024, Mr and Mrs K made a claim under their Premier Guarantee New Homes Warranty following a roof leak at their tenanted property. Some initial contact from AmTrust followed and Mr and Mrs K also advised AmTrust that the developer was in contact with them and had investigated and was due to issue a report.

In May, AmTrust asked Mr and Mrs K to chase the developer for a report, as it needed to identify the cause of the leak before liability could be accepted. But the developer wrote to Mr and Mrs K to say there was no latent defect, so it wouldn’t take responsibility for the problems they were having with water ingress.

AmTrust then asked Mr and Mrs K to obtain a report confirming the cause, and for two quotes for repair. Mr and Mrs K sent AmTrust an email from the builders confirming they’d been unable to identify the cause of the leak, but would return to cut out a portion of ceiling. This also proved unsuccessful as there was little rainfall, so the leak couldn’t be located.

In June, AmTrust wrote to Mr and Mrs K to confirm the policy wouldn’t provide cover as no defect had been identified. But Mr and Mrs K didn’t agree and said there was clearly a defect as water was entering their property.

AmTrust agreed to keep the claim open at Mr and Mrs K’s request – and in September, Mr and Mrs K received comments from their builder, confirming that the ply membrane hadn’t been correctly applied and that there were areas where the breather membrane had been placed behind the roofing membrane. It said this had been corrected and sealed. Mr and Mrs K were advised to monitor the situation after any heavy rainfall.

Mr and Mrs K asked that their claim proceed and that the excess be waived. AmTrust responded to say that the developer had to take full responsibility for the repairs as it had accepted liability. AmTrust advised Mr and Mrs K that they may “need to take the legal route” to pursue the developer if it didn’t put things right. It explained that as the developer was involved AmTrust wouldn’t be able to assist, but if at any point the developer’s involvement ended, then it would continue with the claim but would require a report confirming the defect and two quotations.

Mr and Mrs K complained. They said AmTrust’s insistence on receiving a report was unreasonable and there was nothing in the terms of the guarantee that obligated them to produce a report before a claim could be considered.

In response to their complaint, AmTrust said it acknowledged it hadn’t explained the claims process to Mr and Mrs K adequately, but that it also didn’t have enough to determine liability

which was why a report was requested. It also accepted that it shouldn't have suggested closing the claim and should've provided guidance on how to validate the defect and proceed with the claim. It also said that Mr and Mrs K shouldn't have been advised to take the legal route to pursue the developer. Taking into account the errors it had made, AmTrust offered Mr and Mrs K £300 compensation for the distress and inconvenience it had caused.

Mr and Mrs K didn't accept AmTrust's response, so they referred their complaint to the Financial Ombudsman Service. They said the claim was effectively blocked due to the repeated requirement for them to provide a report. And that the claim was rejected when it should not have been.

Our Investigator considered the complaint, but thought AmTrust had already accepted it made mistakes and had offered a reasonable amount of compensation for these. Mr and Mrs K didn't agree, so they asked for an Ombudsman's decision. The complaint has therefore 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.

As this is an informal service, I'm not going to respond here to every point raised or comment on every piece of evidence Mr and Mrs K and AmTrust have provided. Instead, I've focused on those I consider to be key or central to the issues in dispute. But I would like to reassure both parties that I have considered everything submitted. And having done so, I'm not upholding this complaint. I'll explain why.

The insurance industry regulator, the Financial Conduct Authority (FCA), has set out rules and guidance about how insurers should handle claims. These are contained in the 'Insurance: Conduct of Business Sourcebook' (ICOBS). ICOBS 8.1 says an insurer must handle claims promptly and fairly; provide reasonable guidance to help a policyholder make a claim and give appropriate information on its progress; and not unreasonably reject a claim. I've kept this in mind while considering this complaint together with what I consider to be fair and reasonable in all the circumstances.

It's not in dispute that various mistakes were made throughout the course of Mr and Mrs K's claim journey with AmTrust. I've noted however that Mr and Mrs K have said AmTrust should fundamentally change the way in which it handles claims of this nature. Ensuring this happens going forward for all customers is not my role. My role is to look at the circumstances of individual complaints and determine what should be done to put things right for individual consumers.

In this particular case, I agree that AmTrust made numerous errors in its dealings with Mr and Mrs K. These included, among other things:

- Failing to advise Mr and Mrs K about the claims procedure.
- Repeatedly asking for a report without clarification or guidance, for example without pointing to the specific policy requirements for this and what any evidence would need to show.
- Suggesting it closed the claim when matters had not yet been resolved.
- Suggesting Mr and Mrs K take the legal route to pursue the developer.

In relation to the repeated requests for an expert report, when making a claim on an insurance policy, it is for the insured – so in this case Mr and Mrs K – to demonstrate they've suffered a loss covered by the policy. If they are able to do so, then the insurer will generally

need to accept the claim unless it can show it can fairly rely on a valid exclusion in the policy to decline it. In Mr and Mrs K's case, AmTrust said that based on the available information it wasn't satisfied that there was a defect covered by the policy. But I don't think its communications regarding this were particularly helpful. It should've told Mr and Mrs K about the policy term which required this, and provided more information about what was required from Mr and Mrs K, in line with its duty under ICOBS to help a policyholder make a claim. It didn't do this, and instead continually insisted on receiving an expert report without adequate guidance or clarity as to why this was needed.

I've looked at what the terms of the building warranty say about this. At section 8.5 of the guarantee, it specifies that:

*"On discovery of any occurrence or circumstance that is likely to give rise to a claim under this section of the Policy the Policyholder shall as soon as reasonably possible:*

- i) give written notice to the Scheme Administrator;*
- ii) take all responsible steps to prevent further loss or damage;*
- iii) submit in writing full details of the claim and supply all correspondence, reports, plans, certificates, specifications, quantities, information and assistance as may be required."*

As the policy specifically sets out that further evidence may be required in the event of a claim, I can't say AmTrust acted unreasonably in requesting a report – but what it should've done, as I've said, was point to the policy requirement much sooner, and explain why a report or any other supporting evidence was required. And if a report couldn't be provided, AmTrust should have given assistance to help Mr and Mrs K understand what other information would've helped it move forward with the claim.

AmTrust also should have highlighted the specific policy requirement for there to be a defect covered by the terms of the warranty, and it should've sought clarification from Mr and Mrs K about whether the developer would be covering all the internal damage or just putting right the defect, and I can't see that it did this.

Because of these errors and missed opportunities, I'm satisfied that Mr and Mrs K were caused distress and inconvenience for which they should be compensated. And I consider the £300 compensation already offered by AmTrust to be fair and reasonable in the circumstances. This is because AmTrust has accepted and apologised for the mistakes it made, has agreed to provide feedback, and has provided further clarification about matters in its final response email dated 18 October 2024. Bearing in mind the amount of frustration I think was caused here, and the fact the developer did step in to carry out repairs, as well as the time this took and the fact it was a rental property, £300 is around the level of compensation I would've awarded here, had no offer been made.

Mr and Mrs K have said they've been able to obtain financial recompense directly from the builder, and that the roof leak has manifested a second time so a second claim is likely. I'm unable to give directions regarding a future claim – but I'd expect any claim to be considered fairly. And if it isn't, then Mr and Mrs K are free to make a further complaint to their insurer. They will then be able to bring that complaint to the Financial Ombudsman Service, subject to the usual rules and time limits that apply.

I'm sorry to disappoint Mr and Mrs K, but for the reasons I've explained, and although I agree with what they've said about the way their complaint was handled, I consider AmTrust to have dealt with the complaint fairly, accepted responsibility for the mistakes it made and offered a reasonable amount of compensation for the trouble caused. So I won't be requiring it to do anything further in relation to this complaint.

**My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K and Mrs K to accept or reject my decision before 28 November 2025.

Ifrah Malik  
**Ombudsman**