

The complaint

Miss B and Mr H are unhappy with how AmTrust Specialty Limited have dealt with claims they have made on a building warranty policy.

What happened

Miss B and Mr H purchased a property that was covered by a ten-year warranty policy provided by AmTrust.

The warranty is made up of different sections, for the first two years after completion, the defect insurance period, the developer is responsible for rectifying issues with the property. If the developer becomes insolvent or refuses to cooperate, in certain circumstances AmTrust then becomes liable for completing any required rectification work.

The policy also offers a dispute resolution service during this time which helps to resolve any issues between a customer and a developer – this service isn't a regulated activity and therefore doesn't fall under the jurisdiction of the Financial Ombudsman Service. Where the dispute resolution service is used and issues are found, the developer is given a deadline by which it should carry out repairs. Again, if the developer refuses to co-operate or doesn't complete the works by the deadline given AmTrust becomes liable under the policy.

In years 3-10, the structural insurance period, AmTrust is responsible for rectifying certain damage to the property caused by defects.

Within the first two years Miss B and Mr H noticed several issues with their property which they brought to the attention of the developer. Frustrated by a lack of action, they then raised the issue with the administrator of the policy who arranged for the dispute resolution service to be used. A report was issued and a deadline given for repairs to be completed.

During this time the structural insurance period under the policy started and further issues of water ingress to the property were noticed during this time. It was decided by the policy administrator, an agent of AmTrust's, to include these within the correspondence to the developer asking it to rectify those matters as well.

While the developer agreed to undertake rectification works, nothing happened for many months and any progress after that was very slow. Miss B and Mr H complained about the delays in matters being resolved.

A complaint was considered by this Service and the Investigator found that while we couldn't consider a complaint about the dispute resolution service, the developer had failed to undertake repairs within the deadline stated. They further found that the developers lack of correspondence for months after, meant that AmTrust became liable under the policy for the works required.

At the time the Investigator issued their opinion the developer had started some work on the property, so they didn't recommend that AmTrust take over that work at that point, as it was progressing, however they did recommend Miss B and Mr H be awarded £250

compensation. They said that by not assuming responsibility for the repairs earlier, AmTrust caused Miss B and Mr H distress and inconvenience. Both parties accepted this view and the complaint was resolved.

Miss B and Mr H have explained after that time matters still took a long time to be resolved, there were extended periods without updates and repairs weren't finalised until September 2023. However, in December 2023, they noticed further water ingress in an area the developer had previously repaired. They reported this to AmTrust in early 2024 as well as mentioning two other areas where they had noticed water ingress.

Amtrust initially incorrectly declined Miss B and Mr H's new claim and therefore this delayed a surveyor being sent to the property. AmTrust has again engaged the developer to put things right. Miss B and Mr H made a new complaint to AmTrust.

Miss B and Mr H explained they are frustrated about the length of time matters have taken to resolve, they say the developer is very slow at dealing with matters and it is causing them a considerable amount of trouble and upset. They are unhappy to be repeatedly told matters are being dealt with under the dispute resolution service despite this Service previously finding that AmTrust's liability under the policy had started. They say they have asked repeatedly for AmTrust to take over the repairs and arrange for them to be completed by other contractors however the matters continue to be pushed back to the developer to resolve. They are also unhappy the issues they have reported recently are still outstanding.

AmTrust considered the complaint, it explained that it couldn't investigate a complaint about the dispute resolution service, but it had looked at the issues raised with it that fall under the structural insurance period. It recognised that it had incorrectly declined the claim and misinformed Miss B and Mr H about the cover the policy provided. It recognised this meant the claim was delayed and Miss B and Mr H had been caused distress and inconvenience; it offered them £500 compensation.

Miss B and Mr H didn't accept this amount and brought their complaint to this Service. An Investigator looked at the complaint but didn't think it should be upheld. She explained to Miss B and Mr H she couldn't consider what had happened under the dispute resolution service, and she thought AmTrust's offer of compensation was fair for the impact its later actions had caused.

Miss B and Mr H disagreed and asked for an Ombudsman to review the complaint. In doing so they reiterated many of the points they had made before. They also explained they disagreed that the period between October 2021 and early 2024 couldn't be considered as it had previously been found by this Service that AmTrust's liability under the policy had started.

The case has been passed to me to decide.

My provisional findings

I issued my provisional findings on 22 July 2025. I said I intended to uphold the complaint for the following reasons:

"Issues raised within the Defect Insurance period (Years 0-2)

An Investigator at this Service previously found that AmTrust's liability under the policy for rectification works notified in the defect insurance period started in October 2021. Both parties accepted that view, so I don't need to reconsider that here. However, for completeness I can confirm that I agree with that view.

This means that while AmTrust can choose how the repairs can be completed they become liable for any delays and subsequent inconvenience caused to Miss B and Mr H.

I can see here the rationale for passing the matter back to the developer is so that Miss B and Mr H don't need to pay the excess required under the policy for each outstanding issue. This also prevents costs being incurred by AmTrust and reduces any risk to Miss B and Mr H of having to undertake repairs themselves should any of the repairs required cost less than the excess amount of £100. However, the draw back in taking this approach, as has happened here is that AmTrust becomes responsible for the delays the developer causes – as it can choose to take alternative action.

I can see further delays have happened since Investigator issued their last opinion, which focussed on the three-month delay from when AmTrust's liability started, October 2021 to the developer responding in January 2022. Miss B and Mr H kept AmTrust up to date on progress, visits to the property and, the state of any works that had been undertaken. I can also see they were quick to highlight to AmTrust when no response had been received from the developer and the times where no action was being taken. Miss B and Mr H report the final repairs took place in September 2023

Miss B and Mr H have said in December 2023 further water ingress was noticed in the same area the developer fixed in September 2023 and therefore they didn't think the repairs had been completed in a satisfactory way.

I think there were further opportunities where AmTrust could have chosen to step in and arrange for the works to be undertaken by different contractors, but it chose not to do so. And, while I understand the rationale for AmTrust allowing the developer further time to rectify the issues, it has meant further inconvenience to Miss B and Mr H which I think they should be compensated for. Had AmTrust taken over it is arguable repairs would have been completed in a timelier manner.

Issues covered under the structural insurance period (Years 3-10)

Miss B and Mr H notified AmTrust of further areas of water ingress to the property in 2024 that had happened after the structural insurance period had started. AmTrust initially incorrectly declined the claim under the policy saying the damage wasn't covered. And, in a further response it also incorrectly told Miss B and Mr H their policy would be void if the developer undertook work at the property.

The incorrect decline of the claim meant there was a delay in a surveyor being instructed to review matters and Miss B and Mr H were put to distress and inconvenience in the meantime while they tried to clarify with Amtrust what had happened to get the claim moving forward.

In its complaint response AmTrust acknowledged its actions here would have had an impact on Miss B and Mr H and offered them £500 compensation.

Again, AmTrust has chosen to refer matters to the developer in the first instance instead of instructing alternative contractors to complete repairs. As I have set out above, there is rationale behind doing this, especially as in the structural insurance period the excess payable increases to £1,000 for each separate cause of loss. So this also increases the chance that relatively minor damage could fall to Miss B and Mr H to fix if the cost of doing so falls below that amount.

There also appears to be a question about whether the water ingress to the lounge is from a new cause or is related to the original issue and work undertaken by the developer

previously. If it is found to be linked to the previous issue, then it wouldn't be unreasonable to offer the developer the chance to put things right. It would also be important for AmTrust to establish the cause as it would then dictate what action it can later take against the developer should it take over the claim. However, this is a definition that is only important to AmTrust, either way, Miss B and Mr H have a valid claim under the policy for the matters to be fixed and they are entitled to expect this is done as quickly as possible.

Service

Overall, based on what I have set out above, I think Miss B and Mr H have been caused a considerable amount of distress and inconvenience that has spanned a number of years. And while Amtrust has offered £500, it hasn't taken into consideration the trouble and upset caused to Miss B and Mr H by the delayed repairs that it became liable for October 2021. I think a fairer compensation payment would be a total of £1,000.

I also think that moving forward Amtrust should ensure that any further repairs required to the property are rectified and moved forward in the shortest timeframe possible. If, due to the policy limits, it is beneficial to Miss B and Mr H for the developer to undertake the work then I think it would be sensible for it to do so. However, if there are elements that would fall for AmTrust to repair, even after the policy excess is considered, and, the developer continues to delay fixing these matters, then to avoid any further delay, I would recommend that

AmTrust should consider taking over the claim and arranging the repairs itself. My recommendation here doesn't form part of my direction however I think it sets out a sensible way forward for the parties which should hopefully then avoid any further issues.

Miss B and Mr H would be entitled to make a further complaint should they remain unhappy with future progress of the claim".

Responses to my provisional findings

AmTrust responded saying it accepted my provisional decision.

Miss B and Mr H responded saying while they appreciated the recommendation of £1,000 compensation be paid, they didn't think it went far enough to recognise the frequency and severity of the water ingress or the level of disruption that had been caused. They provided pictures of water staining and ingress, and videos of water leaking into their property, for me to consider, so I could understand further the extent of the issues.

They also added that no further work had taken place, and they would be contacting AmTrust about this.

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 thank Miss B and Mr H for the further information they have sent; I have viewed the images and watched the videos. However, they haven't led me to change my mind on what the outcome should be here. I don't underestimate they have been caused a considerable amount of stress and worry by this matter. but I do think £1,000 compensation fairly reflects that.

So, for the same reasons as set out in my provisional decision I uphold Miss B and Mr H's complaint against AmTrust. I don't think it has treated them in a fair and reasonable manner.

My final decision

My final decision is that I uphold Miss B and Mr H's complaint against AmTrust Specialty Limited. I direct it to pay them a total of £1,000 compensation.

AmTrust Specialty Limited must pay the compensation within 28 days of the date on which we tell it Miss B and Mr H accept my final decision. If it pays later than this, it must also pay interest on the compensation from the deadline date for settlement to the date of payment at 8% a year simple.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B and Mr H to accept or reject my decision before 3 September 2025.

Alison Gore
Ombudsman