

The complaint

Mr K is unhappy with AmTrust Speciality Limited's decision not to pay his income protection claim.

What happened

Mr K has an income protection policy with AmTrust. He became unemployed in May 2024 and claimed on his policy. His claim was declined by AmTrust and so he brought a complaint to the Financial Ombudsman Service in January 2025. An ombudsman issued a final decision in April 2025, partially upholding Mr K's complaint for the poor service he received, but not for AmTrust's decision to decline his claim. His new complaint is about what's happened since then with AmTrust's decision to maintain its declinature, despite Mr K obtaining new evidence.

Mr K said he decided not to go ahead with tribunal proceedings against his previous employer and instead, agreed a settlement through ACAS in the form of a COT3 agreement. Mr K said the contents of the agreement are strictly confidential and cannot be shared with the insurer, and that AmTrust should accept the COT3 as an admission of liability that his previous employer had dismissed him unfairly. He'd like AmTrust to pay his claim, with compensation for the delays and poor service.

AmTrust said it's still unable to validate Mr K's claim as it's unable to see the contents of the COT3 agreement. It said Mr K has therefore been unable to show he meets the policy terms.

Our investigator didn't uphold this complaint. She said the existence of the COT3 agreement isn't enough to demonstrate that Mr K is out of work because of circumstances beyond his control. She accepted the agreement is confidential, however, said AmTrust fairly declined his claim because it's unable to ascertain whether Mr K was made unemployed because of circumstances beyond his control.

Mr K, unhappy with that, asked that an ombudsman consider his case. In summary, he said that he was told by his previous investigator that the existence of the COT3 would be relevant for it to reconsider his claim; that his previous employer opted for the COT3 agreement, rather than to escalate matters in court; that he cannot disclose the COT3 as it's legally restricted; and that AmTrust continued to charge the premiums despite him being unemployed. And so, it's now for me to make a final decision.

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.

Having done so, I've decided not to uphold it and for the same conclusions reached by our investigator. I should also say that I won't be addressing any of Mr K's complaint points raised and considered under the previous complaint. That includes the service he received from AmTrust, its decision to reach out to Mr K's previous employer, the issues with charging him premiums and AmTrust's reliance on his previous employer's submissions.

My final decision will focus on AmTrust's decision to maintain the declinature of Mr K's claim, even after he told it about the COT3 agreement he reached with his previous employer.

The relevant rule in this case comes from the Insurance Conduct of Business Sourcebook and says AmTrust must handle claims promptly and fairly. I've carefully considered AmTrust's obligations under this rule whilst assessing Mr K's complaint.

The relevant part of Mr K's policy terms say "*you are out of work directly due to circumstances beyond your control...*" and so this is effectively the test in this case. Mr K's previous employer said there were performance-related issues which ultimately led to the decision to terminate his employment. I acknowledge that's a point heavily contested by Mr K and it's his view that he was unfairly managed out and constructively dismissed.

But because there was a dispute between both Mr K and his previous employer regarding the circumstances around his dismissal, AmTrust declined liability because Mr K was unable to satisfy the above term. The previous ombudsman that considered Mr K's complaint decided this was fair and reasonable based on the available evidence at the time. Mr K said he planned to take his previous employer to court.

Since then, he entered into a COT3 agreement with his previous employer, the specifics of which are strictly confidential. I sympathise with Mr K, but I don't think it's reasonable to expect AmTrust to accept liability for his claim, considering the existence of a COT3 doesn't meaningfully move the claim any further forward without knowing the terms and basis on which it was entered into.

I say that because AmTrust is still unable to determine whether Mr K's out of work due to circumstances beyond his control because of the confidentiality clause within the COT3 agreement. Mr K's argued that its very existence is proof his previous employer had done something wrong and didn't want the matter escalated to the courts. But I don't think AmTrust has acted unfairly by not accepting this as evidence to establish the claim made under the policy.

Without seeing the details of the agreement, AmTrust is unable to validate his claim. I understand that puts Mr K in a difficult position, but AmTrust must be allowed to validate the claim before accepting liability.

Mr K could potentially seek permission from his previous employer to share the details of the COT3 agreement with the insurer. But there's still no guarantee it'll accept the claim as the COT3 would have to show Mr K's employment was ended due to factors beyond his control, in other words, that the decision to end his employment was not based on his alleged poor performance.

My final decision

For the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 18 March 2026.

Scott Slade
Ombudsman