

## **The complaint**

Miss C's complaint is about a claim she made on her AmTrust Specialty Limited ('Amtrust') legal expenses insurance policy.

Miss C says Amtrust treated her unfairly.

In this decision all references to Amtrust include their claims handlers.

## **What happened**

The details of this complaint are well known to both parties, so I won't repeat it here. Instead, I'll focus on giving my reasons for my 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 uphold Miss C's complaint for broadly the same reasons set out by the investigator. Before I explain why, I wish to acknowledge the various submissions made by both parties. Whilst I've read everything they've said, I won't be addressing it all. That's not intended to be disrespectful. Rather it's representative of the informal nature of the Financial Ombudsman Service. Instead, I'll concentrate on the crux of Miss C's complaint, namely whether Amtrust treated her unfairly and if so what it needs to do to put things right.

The starting point is the policy terms. Like virtually all before the event legal expenses insurance policies, Miss C's requires her claim to have reasonable prospects of success and be proportionate to pursue. In this case Amtrust's panel firm determined that her claim did not have reasonable prospects of success and as such Amtrust declined to cover it further. They said that Miss C would need to obtain her own opinion that was supportive of the merits of the claim before they would consider funding it again.

I can see that Miss C did obtain a supportive opinion from a Barrister. After she presented this to Amtrust however they referred the matter to another panel firm and asked them to consider it. The second panel firm concluded the claim had both no reasonable prospects of success and was not proportionate to pursue. Based on this Amtrust declined cover again. Like the investigator, I think Amtrust's conduct was unfair. Having established the claim had reasonable prospects of success, I fail to see why Amtrust sought a further opinion from another panel firm on the question of proportionality. Miss C had already established the claim had reasonable prospects of success by way of a barrister's opinion. Whilst I appreciate the opinion was silent on the question of proportionality, that doesn't to my mind mean that Amtrust treated Miss C fairly by going to another panel firm for a further review at this point. The correct action, as the investigator explained, was to fund another opinion from Miss C's Barrister on the question of proportionality. And in seeking a further opinion from another panel firm, even on the question of proportionality, I can quite understand why Miss C felt that the task Amtrust had put her to was futile.

It is our well established approach that once a policyholder has demonstrated they have a claim that is capable of cover in the same way Miss C did, an insurer shouldn't seek to look behind that by obtaining yet another opinion from their panel firm, unless some exceptional circumstances dictate why such an approach should be considered. I haven't seen any exceptional circumstances here. Miss C's Barrister's opinion remaining silent on the question of proportionality doesn't to my mind imply that Amtrust were entitled to seek another opinion from yet another panel firm and be entitled to rely on that. Rather they should have simply funded Miss C's Barrister to advise on this issue.

I also agree with the investigator that the opinion Amtrust obtained was prejudicial on the question of proportionality. The second panel firm's view (despite the Barrister's opinion) was that the claim didn't have reasonable prospects of success. I fail to see how such a finding could, in those circumstances, go on to conclude the claim was proportionate to pursue. Overall and for the reasons I've mentioned, I don't think that Amtrust treated Miss C fairly and should do more to put things right. I've set out how they should do this below.

I turn now to the time taken for Amtrust to deal with Miss C's claim. Insurers have a duty to deal with claims promptly, but I'm not satisfied that happened in this case. In instructing a second panel firm to comment on proportionality after Miss C provided her Barrister's opinion, (rather than simply reverting to the instructed Barrister) Amtrust caused unreasonable delay and distress to Miss C. Miss C was already experiencing considerable upset as a result of the underlying dispute with her neighbour. I think that Amtrust's actions compounded this further. And whilst I don't know whether this is currently a claim that is capable of cover under the policy terms, I can say with certainty that Amtrust's decision to rely on the second panel firm's opinion on the question of proportionality and decline cover almost certainly caused Miss C unnecessary upset and delay in receiving an accurate answer from them. I've set out what I think is reasonable compensation in these circumstances which I consider commensurate with awards we'd make in similar circumstances.

### **Putting things right**

Amtrust should:

- Fund the cost of instructing Miss C's Barrister to comment on the proportionality of her claim and then reconsider whether cover is available under the policy based on that opinion
- pay Miss C £300 compensation for the delay and distress caused in this case as I have set out above.

### **My final decision**

I uphold Miss C's complaint and direct AmTrust Specialty Limited to put things right as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 27 February 2026.

Lale Hussein-Venn  
**Ombudsman**