

The complaint

Mr K complains about AmTrust Speciality Limited (“ASL”) and their failure to assist him in pursuing the owner of the property above to gain access and cooperation to allow for repairs to the joint timbers to be completed.

What happened

The claim and complaint circumstances are well known to both parties. So, I won’t be listing them chronologically in detail. But to summarise, Mr K’s insured property was damaged by a leak entering the property from the property above. So, Mr K contacted ASL, the underwriter of his landlord insurance policy, to make a claim.

But during the claim, it became clear that the owner of the property above, who I’ll refer to as “X”, was failing to cooperate and allow access for a scope of works and repairs to be agreed, relating to joint timbers between the two properties. And Mr K felt ASL were failing to assist him with this, so he raised a complaint about it.

ASL responded to Mr K’s complaint and didn’t uphold it. In summary, they explained why they didn’t believe they had the legal right to negotiate or arrange access to X’s property, supporting the position already provided by their loss adjustor, who I’ll refer to as “S”. So, they didn’t offer to do anything more. Mr K was unhappy with this response, reasserting his belief that ASL should instruct a lawyer to assist him in gaining access. So, he referred his complaint to us.

Our investigator looked into the merits of this aspect of Mr K’s complaint and didn’t uphold it, agreeing with the stance ASL had taken. Mr K didn’t agree, explaining why he felt ASL had failed to assist him and setting out the significant impact this had on him, his health and his financial situation as he was unable to rent the property out as he intended. As Mr K didn’t agree, the complaint has been passed to me for a 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’m not upholding the complaint for broadly the same reasons as the investigator. I’ve focused my comments on what I think is relevant, in line with our services informal approach. So, if I haven’t commented on any specific point, it’s because I don’t believe it’s affected what I think is the right outcome.

Before I explain why I’ve reached my decision, I want to set out clearly what I’ve been able to consider. I previously issued a decision on our services jurisdiction, where I explained why our service was only able to consider Mr K’s complaint about ASL’s assistance regarding access to the property above. So, this is the complaint point this decision will address.

And when doing so, I want to be clear that it’s not my role, or the role of our service, to act as a replacement claims handler. So, this decision will only consider the events that occurred

up to the point of ASL's complaint response dated 20 June 2024, as our service can only consider events that have been complained about, with the relevant business being given the chance to respond within their complaint process.

So, while I recognise the issue has remained ongoing since then, any events that occurred after ASL's complaint response haven't impacted the decision I've reached. Should Mr K hold concerns about how the claim progressed and the actions ASL took after this time, these would need to be raised as a separate complaint and handled by our service separately, should this be required.

I note it's not in dispute that Mr K experienced significant difficulty in obtaining co-operation from X, who I note has changed during the claim process due to property sales, to allow access for the damage to be fully inspected and a scope of works arranged and agreed with repairs being completed.

I want to be clear that I've thought carefully, and at length, about the impact this has had on Mr K. I recognise he's spent significant time and energy engaging with multiple organisations and authorities to try and resolve this issue, without success. So, I can understand why he'd look to ASL for support and feel as though it was their responsibility to bear the costs of agreeing access, as they ultimately are responsible for the repairs to his property.

But crucially, the repairs that are required in this situation involve joint timbers, that both he and the property above are responsible for. And ASL are correct when explaining that the policy they provide doesn't provide cover for, or obligate them to, complete the full repairs required to these joint timbers.

In this situation, ASL have explained they were willing to consider reimbursement for 50% of these repairs, which falls in line with what our service would expect. But they also explained that as access was an ongoing issue, they were unable to instruct their own contractors and so, asked Mr K to obtain a quote for the works that they would then consider.

I understand Mr K attempted to obtain quotes himself, as requested. But ultimately, he was unable to obtain any quotes, as for a full scope of works to be compiled, access was required to X's property. And as mentioned above, X failed to cooperate. While I appreciate the impact this lack of co-operation had on Mr K, and the claims progression, this isn't something ASL are responsible for, or able to control.

Considering Mr K's own surveyor's report explained access to X's property was likely required to complete a full investigation to understand the full repairs that are required, which none of Mr K's own builders or other organisations had been able to obtain at the point ASL issued their complaint response, I've not been persuaded that ASL would have been able to gain access if they had appointed contractors themselves to attend and attempt to complete the full scope of works that was required. And I note Mr K's own surveyor, Mr K and other organisations remain satisfied this access is likely required to ensure a full and proper repair to the joint timbers is completed, in contradiction to the stance taken by X and their own solicitors.

So, I'm satisfied ASL have acted fairly when explaining they wouldn't take further action until access is granted, at the point they issued their complaint response.

Ultimately, while it isn't the answer Mr K is hoping for and I appreciate other parties may also have conveyed the same opinion to him to the one he holds, I'm not satisfied that ASL are responsible for incurring, or funding, the costs that may be required to compel X to provide

access to allow for the relevant works to take place under the property damage element of the policy Mr K is claiming against.

Mr K would need to seek further legal guidance regarding the access issue to understand the steps he may need to take to obtain access and co-operation from X, as well as the costs this may incur including who would be responsible for these costs should he be successful.

Again, I want to convey my understanding of the impact this situation has had on Mr K. And this decision isn't intended to detract, or take away, from his lived experience and the suffering he's incurred. But my complaint focuses solely on the actions and decisions taken by ASL relating to the complaint point this decision is intended to address. And I'm unable to say they have acted unfairly or unreasonably considering this.

My final decision

For the reasons outlined above, I don't uphold Mr K's complaint about AmTrust Specialist Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 10 April 2026.

Josh Haskey
Ombudsman