

## **The complaint**

Mr N's complaint is about a claim he made on his Amtrust Europe Limited legal expenses insurance policy.

Amtrust refused to fund his claim after their panel firm determined it didn't have reasonable prospects of success.

Mr N feels that Amtrust were wrong to turn down his claim and feels that he's been treated unfairly as a result.

All references to Amtrust in this decision include their claims handlers.

## **What happened**

The details of this complaint are well known to both parties, so I won't repeat them again here. And the facts are not in dispute, so 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.

Mr N has requested a phone call to discuss his complaint with me. That's not something I've considered is necessary in this case as I have enough information to decide his complaint.

Having considered everything, I won't be upholding Mr N's complaint for the same conclusions reached by the investigator. These are my reasons:

- The policy terms require Mr N's claim to have reasonable prospects of success in order for Amtrust to fund it. Amtrust instructed a panel firm who obtained expert evidence to ascertain the merits of Mr N's claim. The expert evidence was not supportive of Mr N's claim and the panel firm's legal opinion was that it didn't have reasonable prospects of success.
- Amtrust were entitled to rely on the opinion of the panel firm. An insurer is not an expert in the legal position so they're entitled to rely on someone who is. In a claim like this we'd expect Amtrust to instruct a legal professional who is suitably qualified. Amtrust did this.
- An insurer is entitled to rely on the advice of a suitably qualified legal professional unless that advice is obviously wrong or based on factual mistakes. Mr N says the panel firm have relied on factual mistakes, like the date of the incident that led to his claim. The panel says that the mistakes he's cited aren't mistakes- they are based on the content of the factual documents and evidence he provided them with- and in any event this wouldn't make a difference to the outcome of the merits of his claim which is founded in the expert evidence they obtained.
- Mr N says he's asked the panel firm and the expert a number of questions and these

haven't been addressed. Amtrust raised this with the panel firm. As I understand it the panel firm reverted to the expert on three occasions with Mr N's questions and this didn't change the merits of his claim. I can see the panel firm have also reverted to Mr N on more than one occasion to explain their advice too. They've also disclosed all the information he's asked for. I can't expect Amtrust to do anything further beyond this and I'm satisfied they've done enough to ensure Mr N's complaints have been addressed as they should have been.

- Amtrust has said that Mr N is entitled to get his own expert evidence and legal opinion if he thinks the current evidence and advice is wrong. They've said they'd be prepared to reconsider funding his claim if any new evidence and opinion is supportive of it. I think this is reasonable and in line with the approach this Service would adopt in that type of situation.
- Mr N is unhappy that Amtrust said they wouldn't fund his claim any further with only six months remaining on the limitation applicable to his claim. He's provided a letter from another firm saying that's not long enough for it to properly investigate the claim. Whilst I appreciate his position, I think that six months is ample time for Mr N to take advice elsewhere and that Amtrust have discharged their obligations under the policy in any event. They are not obliged to cover his claim just because it's coming up to the end of limitation period. And Mr N pursuing his claim before limitation is not Amtrust's responsibility if policy cover is not available to him.
- I appreciate that Mr N is unhappy with the actions of the panel firm. That's not something that I can consider as it doesn't fall within my remit. The panel firm are a separate organisation to Amtrust with their own codes of conduct and regulator. If he remains dissatisfied, he can raise it with the panel firm directly or complain to The Legal Ombudsman.
- Finally, Mr N says he's been sold a policy that's not fit for purpose. In this complaint I'm not looking at the way in which the policy was sold- that's a complaint against the seller and not Amtrust, who are the insurer. If Mr N feels the policy was mis-sold to him, he can raise this with the seller directly.

**My final decision**

For the reasons set out above, I don't uphold Mr N's complaint against Amtrust Europe Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 28 July 2023.

Lale Hussein-Venn  
**Ombudsman**