

The complaint

Mr K is unhappy with what Amtrust Europe Limited did after he made a claim on his Professional Indemnity and Legal Defence Insurance Policy.

What happened

In August 2022 Mr K contacted Amtrust to make a claim on the Legal Defence section of his policy. He said he'd be attending a hearing about restoring him to his body's professional register and wanted legal assistance. Amtrust turned down the claim. It said while the policy provided cover to defend legal rights in this case Mr K had requested the hearing so he could be restored to the register. It didn't think that was something his policy covered.

Our investigator accepted Mr K might need to defend his position during the course of the hearing. But she agreed the policy only covered legal action which had been brought against the policyholder and a defence to that. That didn't apply here. So she thought Amtrust had acted correctly and fairly in turning down the claim.

Mr K didn't agree. He said the policy provider cover to defend his legal rights when required to respond to an investigation and or an interview under caution with his professional body. And in this case he was represented by a barrister and solicitor who had defended his legal rights and he'd taken part in an interview under oath. So I need to reach 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.

The relevant rules and industry guidelines say Amtrust has a responsibility to handle claims promptly and fairly. It shouldn't reject a claim unreasonably.

I've looked first at the terms and conditions of Mr K's policy. The legal expenses section sets out a number of insured events but I think it's agreed the only one that could be relevant here is 'Legal Defence'. And cover within that section includes:

- *Costs to defend Your legal rights when required to respond to an investigation and/or an interview under caution with [relevant professional bodies]*
- *Costs in a Legal Action to defend Your legal rights arising out of a formal investigation or disciplinary hearing brought against You by any trade association or professional or regulatory body*

The policy contains a definition of 'Legal Action' of which the most relevant point here is *"the defence of investigations and/or interviews under caution"*.

In this case I understand Mr K's professional body previously took action against him which resulted him in being removed from its professional register. That wasn't something Amtrust was involved with. The claim he made in August 2022 was for assistance with a hearing to decide if he should be restored to the register.

I think it's clear this is a process that had to be (and was) initiated by Mr K. Guidance produced by his professional body titled 'Restoration to the register: guidance for applicants and committees' says *"Anyone who has been removed from the register by a fitness to practise committee and wants to be restored to the register must apply to the registrar"*. It also makes clear that *"an application for restoration is not an appeal against, or a review of, the original fitness to practise committee decision"*.

Given that I don't see this process could reasonably be regarded as arising out of a formal investigation or disciplinary hearing brought by any trade association or professional or regulatory body. And in any event it wasn't being brought against Mr K; he'd initiated the restoration process so he was the one pursuing these proceedings.

Nor do I think the restoration process could be classed as the defence of legal rights when required to respond to an investigation and /or an interview under caution. I appreciate as part of this process Mr K would need to show why he should be restored to the register. But again this was something he'd initiated. So, even if his professional body did carry out some investigation as part of this, the underlying process was one he'd started. And while Mr K says he was interviewed *"under oath"* that's different to be interviewed under caution which is what the policy actually covers.

So for the reasons I've explained I don't think Amtrust acted unreasonably or unfairly in concluding the claim Mr K wanted to make wasn't one his policy covered and turning it down on that basis.

My final decision

I've decided not to 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 8 December 2023

James Park
Ombudsman