

The complaint

Mr G complains that Amtrust Europe Limited declined a claim on his legal expenses insurance policy.

Where I refer to Amtrust, this includes its agents and claims handlers acting on its behalf.

What happened

Mr G's home insurance included legal expenses cover, underwritten by Amtrust. In April 2021 he upgraded his insurance to include cover for a wider range of legal disputes.

He had a dispute with his parish council over an access way next to his home. There were a number of incidents including, amongst other things:

- In May 2020 he received a letter from the parish council about his boundary and hedge. He reported the matter to the district council and to the police.
- In December 2020 he received a letter from the county council about the hedge. He says he later found out this happened after the parish council contacted the county council about the matter.
- In February 2021 contractors instructed by the parish council cut back his hedge. He says this was trespass and criminal damage, which he reported to the police.

Mr G pursued complaints about the parish council's actions. In February 2023 he made a claim on his policy for cover relating to the dispute.

Amtrust declined his claim because the incidents had started before he increased the level of cover in April 2021, and the level of cover he had before that didn't include cover for this type of dispute.

Mr G complained but when he referred the complaint to this Service, our investigator didn't think Amtrust was at fault. So he's requested an ombudsman's 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 G made a claim in February 2023. He wanted cover to take action against the parish council including for trespass, property damage and harassment.

After Mr G upgraded his policy in April 2021 it included a wider range of legal disputes including nuisance or trespass. So he was potentially covered for the claim he wished to make.

However, there's no cover for a dispute that had already started before the cover was in place. Mr G's dispute had been ongoing for some years and clearly started before April 2021, so before this level of cover was in place.

In addition, there's no cover for claims in respect of work undertaken by or under order from, any public or local authority. As the dispute concerns actions by, or on behalf of, the parish council that exclusion would also apply.

Before April 2021 Mr G had a more basic level of cover which only provided cover for four insured perils. The only insured peril relevant to Mr G's claim was Peril 2 - Property damage.

This included cover for a legal action against a person or organisation "*that causes physical damage to Your Home or Your or Your Family's personal effects.*" So if there had been damage to his home, that would potentially have been covered. But this only extended to his property and outbuildings.

Although there was an incident in February 2021 where he says damage was caused, that was to a hedge. And in any event, there's no cover for action taken by or under order from a local or public authority.

For these reasons, I agree it was fair and in line with the policy terms for Amtrust to decline his claim.

Mr G is unhappy that he upgraded his cover because he anticipated trouble with the parish council and says he should have been told he wouldn't be covered for this. Amtrust underwrites the legal expenses cover but didn't sell the policy to him and so isn't responsible for that; it's only responsible for dealing with the claim.

While he says he expected even the more basic level of cover to have included trespass and property damage, his claim wasn't covered for the reasons I've explained.

I appreciate the dispute has been upsetting for Mr G and he's been put to a lot of trouble dealing with it, but his policy does not cover him for this claim.

My final decision

I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 22 December 2023.

Peter Whiteley
Ombudsman