

## The complaint

Mr P complains about how Amtrust dealt with a claim under his reclining furniture protection plan policy.

Amtrust use agents to administer the policy and to assess claims. References to Amtrust include these agents.

## What happened

Mr P had a reclining furniture protection plan policy (at a cost of £49) with Amtrust to cover accidental damage and faults with a battery-powered recliner armchair he purchased in September 2018, with a full retail value of £1,145. It was delivered in December 2018 (the date from which the policy started).

In October 2022 Mr P noticed issues with the armchair and the recliner function stopped working. He contacted Amtrust to tell them about the fault and lodge a claim. A technician visited Mr P's home and diagnosed a failed battery, which would need replacement. Mr P didn't hear anything for a couple of months, so contacted Amtrust. They said a new battery had been ordered (January 2023) but it wouldn't be available until June 2023.

Unhappy at what had happened, the length of time taken to replace the battery, Mr P complained to Amtrust.

In their first final response issued in February 2023, Amtrust upheld the complaint and apologised for any distress or inconvenience caused to Mr P. They accepted there were delays in handling of Mr P's claim, between October 2022 and January 2023, when they ordered a replacement battery. This meant the claim exceeded the time Amtrust expected a claim to be resolved. They also acknowledged a lack of contact during the claim, and they should have been more pro-active in keeping Mr P informed. In light of this, Amtrust offered £200 in compensation. Amtrust noted the manufacturer had confirmed an estimated delivery date for the replacement battery as June 2023. Once the replacement battery had arrived, they would contact Mr P to arrange an appointment for it to be fitted.

Subsequently, a replacement battery arrived, but when a technician arrived with the new battery, in June 2023, it was a different size to the original battery and couldn't be fitted in the same location (inside and underneath the armchair) so it was placed outside and to the back of the armchair.

Mr P wasn't happy as it was unsightly, and he thought it a safety hazard in a home with small children and pets. The new battery also required a different charger to the original, which Amtrust hadn't provided. This made the armchair unusable as the battery couldn't be charged. The technician couldn't resolve the issue immediately, so reported it to Amtrust. Unhappy at what had happened, Mr P made a further complaint to Amtrust. He wanted his armchair repaired properly or for the armchair to be replaced.

Amtrust issued a second final response in June 2023. They said his claim had been resolved correctly and in line with the policy terms and conditions, so they wouldn't be taking any

further action. While they appreciated Mr P's concerns about the new battery, where a part (including a battery) was replaced the policy didn't guarantee an exact match, referring to the terms and conditions. The original battery had been discontinued, so the currently available model was fitted. While the battery was different to the original, the armchair worked as intended, so they considered the repair was successful, again referring to the terms and conditions of the policy. While they noted Mr P had requested the replacement of the whole armchair, they wouldn't consider that option. Regarding the absence of a charger for the new battery, they said one was on order and would be delivered directly to Mr P.

Mr P then complained to this Service. He was unhappy at what had happened and wanted a new armchair or compensation for the original retail value (£1,145) so he could buy a new one. He also wanted an apology from Amtrust and compensation of £1,145 for the year he'd been without a functioning armchair, the amount of time and indirect economic losses and stress he'd suffered from having to deal with the issues.

Our investigator initially didn't uphold the complaint, concluding as an original battery wasn't available, Amtrust had replaced it with a new one and repaired the armchair. So, they'd complied with the policy terms and conditions and wouldn't have to replace the armchair. While the new battery sat outside the chair, the armchair functioned as normal, so it wouldn't be reasonable for Amtrust to have the replace the whole armchair solely for this reason.

Mr P disagreed with the investigator's initial view. He disagreed the armchair had been successfully repaired, saying the repair completely changed its function, value and usability. As a repair wasn't possible. Amtrust should replace the armchair. Using an analogy, if the engine of a car was replaced with one that sat outside the car, the car would be unsafe.

The investigator reconsidered the case, issuing a second view in which she concluded the length of time taken to replace the battery seemed excessive and Mr P hadn't been proactively updated by Amtrust about the delay or the reasons for it. She thought Amtrust should pay Mr P £100 compensation for the delay and lack of communication. While she considered what Mr P said about the replacement battery sitting outside the chair, the original battery was no longer available, and this was outside Amtrust's control. They did what they could to fit a replacement battery and associated electrics so that the armchair then worked. This was within the terms and conditions of the policy.

Mr P disagreed with the investigator's second view and asked an ombudsman review the complaint. He maintained the electrics in the armchair weren't replaced, as the only problem was with the original battery. The new battery wasn't safe nor was it out of sight. And he didn't have a charger to enable him to charge the battery. As a replacement original battery (that sat inside the armchair) wasn't available, while this wasn't Amtrust's fault, it was their responsibility and so Amtrust should replace the armchair.

Amtrust also responded to the investigator's second view, saying they accepted there was a delay in ordering a replacement battery and they'd offered £200 compensation for the delay in their final response issued in February 2023. But they disagreed there were further delays after that point. The manufacturer provided an estimated delivery date for the replacement battery of June 2023, and they'd sent automatic updates to Mr P. The replacement battery was delivered before the estimated delivery date and the first appointment offered to Mr P to fit it was at the end of May 2023.

In my findings I concluded Amtrust acted fairly and reasonably in line with the policy terms and conditions in fitting a replacement battery outside the armchair, as it wouldn't fit in the same location as the original battery, which has been discontinued.

I also concluded there was an initial delay in sourcing a replacement battery, but once the order was placed with the manufacturer, the time taken for it to be delivered was outside Amtrust's direct control.

But I concluded Mr P suffered inconvenience due to the time taken over his claim and his armchair repair. Given what Amtrust accepted about delays they were responsible for, I concluded they didn't act fairly and reasonably towards Mr P in this respect. I thought the £200 compensation awarded by Amtrust was fair and reasonable, so I didn't propose to ask them to make a further award.

Because I reached different conclusions to our investigator, I issued a provisional decision to give both parties the opportunity to consider matters further. This is set out below.

*What I've provisionally decided – and why*

*My role here is to decide whether Amtrust have acted fairly towards Mr P.*

*Looking at the overall sequence of events, there are two main elements to Mr P's complaint. The first is about the replacement battery fitted to the armchair. Mr P is unhappy that it sits outside the armchair and as such affects its aesthetics and presents a safety hazard. He also complains a charger hasn't been provided to enable the new battery to be charged. Amtrust say the original battery for the armchair has been discontinued so they've fitted an alternative, though this can't fit in the same [inside and underneath] location as the original battery. But the armchair works as intended so they've repaired the chair in line with the policy terms and conditions.*

*The second issue is the length of time taken to handle the claim and repair the armchair. Mr P says he's been without a functioning armchair for over a year and the time taken has been inconvenient and stressful, so he should be compensated for that. Amtrust say they accept an initial delay before the replacement battery was ordered, but the time taken thereafter was due to the estimated delivery date from the manufacturer, and they offered an initial appointment ahead of that date.*

*In considering both issues, I've carefully considered all the evidence and information provided both by Mr P and by Amtrust. Having done so, I've concluded they have acted fairly and reasonably. I know Mr P will be disappointed by this conclusion, so I'll set out the reasons for doing so.*

*On the first issue, I've considered whether Amtrust acted fairly and reasonably in fitting a replacement battery, albeit outside the armchair rather than inside it. In their final response, Amtrust refer to the following policy terms and conditions under Section 6.6b Claims Procedure which states:*

*"We do not guarantee that any repair or replacement will be an exact match of grain, sheen, pattern or colour. Any replacement parts will be matched to an inconspicuous area of the product and our liability is limited to the best job an...approved technician could do in the circumstances."*

*Regarding what they consider to be a successful repair of the armchair, Amtrust refer to the following policy wording, under the same section:*

*"We will settle valid claims by sending you a specialised stain removal product (if appropriate), or cleaning or repairing your damaged product as we see fit. If the product cannot be satisfactorily cleaned or repaired, we will replace the product."*

*I think it's reasonable to interpret these terms and conditions to mean that where an original replacement part (in this case, the battery) isn't available, then the policy sets out an alternative will be fitted, as best can be achieved in the circumstances. Looking at the technician's report when they fitted the replacement battery, it records the original battery type had been discontinued since Mr P purchased his armchair, with a new style battery being provided instead. The latter wouldn't fit inside the armchair so had to be fitted outside. In the photographs included with the report, they show the battery pack located close to and behind the armchair. Given the new battery wouldn't fit in the same location as the original battery, I don't think this is unreasonable – and not something with Amtrust's control or for which they are responsible. The technician report states there was no other way of fitting the new battery, other than the option of a power pack plugging into an electrical socket on the wall (which the report states Mr P didn't want).*

*Taking these points together, I've concluded Amtrust acted fairly and reasonably in line with the policy terms and conditions.*

*I appreciate what Mr P says about the aesthetics (and safety) of the new battery's location, but I don't think it's reasonable to conclude the repair hasn't been successful – there's no indication the armchair doesn't recline or is damaged in any other way – or presents a clear safety hazard. So, I can't reasonably ask Amtrust to replace the armchair (or pay Mr P the full retail value of the armchair).*

*On the issue of a charger not being supplied with the replacement battery, Amtrust (and the technician report) state this had been ordered from the manufacturer. However, what I haven't seen is whether the charger has actually arrived – the indications were it was going to be delivered direct to Mr P, but I can't immediately see whether in fact this happened. In responding to this provisional decision, it would be helpful if this could be confirmed, one way or the other.*

*Moving on to the second issue, the time taken for the claim to be handled and a replacement battery delivered and fitted, I've considered the overall timeline and sequence of events.*

*What is clear – and Amtrust acknowledge this in their first final response in February 2023 – is there was a delay between Mr P first telling Amtrust of the issue with his armchair in October 2022 and the order for a replacement battery being placed in January 2023. I've seen an indication this was, in part, due to the technician trying to source a replacement battery. But this wasn't available from their supplier, so it had to be ordered from the manufacturer. However, this still meant a period of three months before the order with the manufacturer was placed, which in turn then meant a repair couldn't be undertaken sooner than it was. Amtrust also acknowledge they weren't proactive in keeping Mr P updated during this period.*

*Between January 2023 and June 2023, Amtrust were waiting for the replacement battery to arrive from the manufacturer, who gave an estimated delivery date of the beginning of June 2023. Mr P accepts this wasn't Amtrust's fault – but says it was their responsibility. I don't agree, as Amtrust had tried to source a replacement battery through their supplier but then had to order it from the manufacturer. At that point, they weren't in control of the timeline for a replacement battery to be delivered. While the delay was unfortunate, I don't think it fair or reasonable to hold them responsible.*

*But it's clear Mr P suffered inconvenience due to the time taken over his claim and his armchair repaired. Given what Amtrust accept about the delays they were responsible for, I've concluded they didn't act fairly and reasonably towards Mr P in this respect.*

*Having reached this conclusion, I've considered what Amtrust should do to put things right. In their final response in February 2023 they awarded Mr P £200 compensation to recognise the delays and lack of proactive communication. Considering the circumstances of this case and the published guidelines on awards for distress and inconvenience from this Service, I think £200 is fair and reasonable. So, I don't propose to ask them to make a further award.*

*While Amtrust offered the sum, it's not clear whether they've paid the sum (their final response indicates it was up to Mr P to decide whether or not to accept it). Their complaint notes indicate it may already have been paid (together with a separate award of £100 from another complaint). But if they haven't already paid the sum, they should do so.*

### *My provisional decision*

*For the reasons set out above, my provisional decision is that I intend to require Amtrust Europe Limited to:*

- *Pay Mr P £200 compensation for distress and inconvenience (if they haven't already done so).*

*Amtrust Europe Limited must pay the compensation within 28 days of the date on which we tell it Mr P accepts my final decision. If they pay later than this they must also pay interest on the compensation from the date of my final decision to the date of payment at 8% a year simple.*

Amtrust responded to say they had no further comments. Mr P didn't respond by the date requested.

### **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.

My role here is to decide whether Amtrust have acted fairly towards Mr P.

As Amtrust responded to say they had no further comments and Mr P didn't respond by the date requested, then my final decision remains the same, for the reasons set out in the provisional decision.

### **My final decision**

For the reasons set out above, my final decision is that I require Amtrust Europe Limited to:

- Pay Mr P £200 compensation for distress and inconvenience (if they haven't already done so).

Amtrust Europe Limited must pay the compensation within 28 days of the date on which we tell it Mr P accepts my final decision. If they pay later than this they must also pay interest on the compensation from the date of my final decision to the date of payment at 8% a year simple.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 19 June 2024.

Paul King

**Ombudsman**