

## **The complaint**

Mrs H is unhappy with how Fortegra Europe Insurance Company Ltd (Fortegra) handled her claim for a damaged sofa.

## **What happened**

Mrs H purchased a new sofa in October 2020. At the time of purchase, she also took out a five-year insurance policy to cover the sofa for accidental staining and accidental damage.

Around nine months after delivery Mrs H reported damage to her three-seater, a small hole on the right-hand facing arm. Fortegra arranged for a technician to inspect it. The technician reported that the damage was accidental damage and carried out a repair to fix the issue.

In May 2022 Mrs H reported that the same hole had re-appeared. The same technician inspected the sofa. Fortegra's claim notes detail the technician felt the damage was due to general use over time however, Mrs H says the technician offered to repair the damage again. But as a repair hadn't resolved the issue last time, she wanted to know what her other options were.

Fortegra accepted the claim and contacted Mrs H following the technicians visit and offered her a replacement part or £160 as a cash settlement. Mrs H wanted her sofa repaired so opted for a replacement part. Fortegra ordered the new part in June 2022 but in July 2022 the manufacturer advised them the part was discontinued. Following this, Fortegra noted the technician's second inspection had said the cause was general wear so they informed Mrs H the claim wasn't covered.

Mrs H made a complaint, but Fortegra maintained that the technician had found it was damage caused over time and even though they had previously repaired the sofa, they didn't feel it was consistent with a failed repair and the damage wasn't consistent with accidental damage. They acknowledged the level of service provided wasn't what it should have been and offered £50 compensation.

Mrs H brought her complaint to this service. As the complaint wasn't resolved it was passed to me to decide. I issued a provisional decision in June 2023 which said:

*"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.*

*Fortegra have a responsibility to handle claims promptly and fairly and they shouldn't decline a claim unreasonably.*

*The policy terms and conditions set out the agreement between Mrs H and Fortegra and details what is and isn't covered. It's clear the policy covers Mrs H for accidental damage, which it defines as:*

*"sudden, unforeseen and unintentional damage resulting in rips, punctures, scuffs, burns, chips or scratches which have penetrated into the surface finish by over 1.5mm to the*

*external surface of them.”*

*When the technician first inspected the sofa in August 2021 his report detailed his opinion of the cause to be accidental damage. It also said:*

*“There was a small hole on the 3STR RHF arm pad from an unknown cause. I’ve repaired, recoloured and resealed the tear. If this fails one 3STR full fitted RHF arm would be needed from the manu”*

*It’s clear that at that time he had considered the hole to be in relation to accidental damage and that it was possible the repair wouldn’t hold.*

*I have requested the technicians report from the second visit, after the hole re-appeared, but this hasn’t been provided. So I only have the notes on the claim history of the technicians’ comments. I note it is dated 01 June 2022 which appears to be before the technician carried out his second inspection. It says:*

*“Tech Report – Small hole on the inside of the RHF arm pad on the seam. I believe this has been caused b general use eventually the stress put on this small area from resting on the arm pad has caused the hole. I advised the consumer I could repair this now but the consumer said this happened before and believes it will again. I tried my best to talk the customer into the repair but he wanted it to be reporting on so he could access his options”*

*It also detailed next actions as POO OFFER, 3 seater 1 x right hand facing arm detailing the costs for the part and the labour and the total cost of £160. It also said:*

*“Called consumer to offer poo – spoke to husband got permission from PH wants parts”*

*So if at this point the technician felt this was caused by general wear over time, it’s not clear why Fortegra didn’t decline the claim. Instead, another repair was offered, replacement part, or cash for the part.*

*Fortegra has said this was an error on their part and that the claim shouldn’t have been accepted given the technicians comments on his second report. They’ve also said the original claim probably should’ve been declined in the first instance. However, I’m aware the same technician inspected the sofa on both occasions, and in the first report noted the cause to be accidental damage of an unknown cause, so it is surprising his opinion differs on the underlying cause following the second inspection.*

*I appreciate it is possible the technician felt the hole was likely in relation to accidental damage of an unknown cause on the first inspection. And that when the hole re-appeared he didn’t feel this was in relation to a failed repair, but new damage related to wear over time. But his second report reads like a fresh inspection, I can’t see he has considered the previous report/repair before reaching his opinion. Given that the hole looks exactly the same and in the same location I’d have expected some notes from the technician to show this had been fully considered to be sure this wasn’t a failed repair. Especially since the first report indicates it’s possible the repair wouldn’t resolve the issue long-term.*

*Mrs H’s sofa wasn’t even a year old when the hole first appeared. Having viewed the photographs and the technicians report following his inspection/repair I’m satisfied it is fair to be considered as accidental damage as there isn’t any evidence to suggest otherwise.*

*I don’t have a full second technicians report to review so it isn’t clear what he considered at the time. Based on the evidence available, I find it likely he hasn’t considered the original*

*report/ repair, as explained, if he had I'd have expected some comments in relation to it and why he didn't feel the hole re-appearing was as a result of a failed repair.*

*And based on the limited comments added to the claim's history rather than a full inspection report, I'm not persuaded Mrs H has been treated fairly as I can't see a thorough review of the incidences has been considered for it to be clear it isn't a failed repair. Especially given the technicians comments in the initial report in relation to the possibility of the repair failing.*

*I understand Fortegra feel that the length of time that passed between the repair and the hole re-appearing means it isn't a failed repair, but I don't think that's enough to evidence it. From the evidence available, the hole looks exactly the same as it did when initially reported. If it was wear over time I'd have expected there to be evidence of further wear on the arm and with the hole itself.*

*Given the technicians observations/ comments when he first inspected the sofa and the fact the photographs Mrs H submitted when reporting the second claim look to be the same as the hole originally reported. I think it's more likely than not that the hole re-appearing is in relation to original damage claimed for and the repair not holding. Based on this, Fortegra should cover the claim.*

*Under what is covered, the policy says:*

*"if a repair cannot be achieved, we may choose to replace the damaged part. If this is not possible, G may provide a replacement product(s), or settle the claim by a cash payment at G and your Insurer's discretion instead of a repair or a replacement (up to the limit of cover). Any cash settlement will be limited to the equivalent cost of repair or replacement by G"*

*Based on what I've seen and for the reasons explained, I'm satisfied the claim should be met in line with the policy terms and conditions. So Fortegra should either repair, replace or cash settle the claim with due consideration to what's happened so far.*

*Mrs H has been put to some distress and inconvenience due to Fortegra's handling of the claim. Fortegra have accepted this and offered £50 but taking account of the mixed messages Mrs H has received and the delay in settling the claim, I think £150 is a fairer reflection of the distress and inconvenience caused.*

*My provisional decision*

*For the reasons explained but subject to any further evidence I receive from Mrs H or Fortegra Europe Insurance Company Ltd, my provisional decision is that Fortegra Europe Insurance Company Ltd should settle the claim in line with the terms and conditions. And pay Mrs H £150 compensation for the distress and inconvenience it caused."*

## **Responses to my provisional decision**

Mrs H didn't have any further comments or evidence for me to consider and Fortegra didn't respond.

## **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.

As there is no further evidence or information for me to consider, I see no reason to deviate

from my initial findings.

### **My final decision**

My final decision is that Fortegra Europe Insurance Company Ltd should settle the claim in line with the terms and conditions of the policy. And pay Mrs H £150 in compensation for the distress and inconvenience it caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 26 July 2023.

Karin Hutchinson  
**Ombudsman**