

The complaint

Mr A is unhappy with Acasta European Insurance Company Limited's decision to decline a claim made under his sofa warranty policy.

Any reference to Acasta includes the actions of its agents. Mr A is being represented on this complaint, so any reference to him, also includes the comments of his representative.

What happened

The circumstances of this complaint are well known to both parties, so I've summarised events.

- Mr A purchased a warranty for his reclining three-seater sofa in 2019. The warranty is underwritten by Acasta and provides cover for accidental damage to fabric, staining, and structural defects. Mr A also added cover specifically for the reclining mechanism of his sofa, which covers:

"Faults being identified outside of the retailer's guarantee period that have occurred due to a faulty or defective components, specifically:
 - *Bending or breaking of any metal components associated with the mechanism.*
 - *Failure of any electrical equipment associated with the mechanism.*
 - *Damage to other product components should the damage be directly linked to the failure of the mechanism which would be covered by this policy.*
 - *Broken handles, buttons, snapped cables."*
- In April 2023, Mr A made a claim when the reclining mechanism started to judder upon closing. Acasta sent a technician who concluded the mechanism had twisted because Mr A had been sitting on one side of the sofa when it was reclined, and this had caused the mechanism to unbalance.
- Based on this, Acasta declined the claim saying the mechanism had twisted because of wear and tear – and this type of damage isn't covered under the policy.
- Unhappy, Mr A brought a complaint to this Service. An Investigator considered it and upheld it. She was satisfied the policy covered the twisting of the recliner mechanism and that it was unfair for Acasta to rely on the "wear and tear" exclusion because:
 - the sofa was being used in line with its intended purpose – namely, to recline – and it was during the normal course of this use that it developed a fault.
 - the sofa was only three years old, and she wasn't satisfied the reclining mechanism should be nearing the end of its life.

- the issue with the recliner should be considered as a defective or faulty component.
- there was nothing in the policy to say the damage had to be a ‘*manufacturing*’ defect to be covered.
- Acasta disagreed and so, the complaint has been passed to me for 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.

Having done so, I agree with the outcome our Investigator reach – I’ll explain why.

- It’s not in dispute there’s a problem with the reclining mechanism of Mr A’s sofa. Acasta’s technician’s report says the “*electric recliner mechanism can be fitted to replace [it].*”
- Here, the reclining mechanism had twisted. The policy covers “*Bending or breaking of any metal components associated with the mechanism*” if this is a result of faulty or defective components.
- Acasta has said the use of the sofa and the way Mr A sat on it led to its wear and tear over time. And that the damage wasn’t because of a faulty or defective component. The policy defines wear and tear as “*the gradual deterioration associated with normal use and age of the product.*” As Acasta is seeking to rely on this exclusion to decline the claim, the onus is on it to show it applies.
- Mr A has told this Service he and his wife sit at both ends of the sofa in the evenings – and that when they do, it’s not always in the recline position.
- The sofa was approximately three or so years old when he made the claim. I don’t consider the recliner mechanism to be of such an age where the deterioration of it can reasonably be attributed to its age. Particularly when there’s no evidence to suggest Mr A’s use of the sofa was beyond what can reasonably be expected.
- While I take into account the limited comments provided by Acasta’s expert, Mr A and his partner simply sitting on the sofa leading to it failing within that timeframe doesn’t persuade me the sofa was a product without fault or defect. So, I’m satisfied the damage is because of either faulty or defective components. Acasta has said the fault needs to be a manufacturing one, but I can’t see that this is referenced in the policy document and so, I’m not satisfied this must be demonstrated for the damage to be covered.
- On balance, I’m more persuaded the reclining mechanism developed a fault whilst it was being used as intended – to recline – rather than because of wear and tear associated with how Mr A sitting on the sofa. And so, I don’t consider it reasonable for Acasta to decline the claim on this basis

My final decision

My final decision is I uphold this complaint and direct Acasta European Insurance Company Limited to accept the claim.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 15 December 2023.

Nicola Beakhust
Ombudsman