

## **The complaint**

Mrs B has complained that Fortegra Europe Insurance Company Ltd declined a claim she made under a household warranty.

## **What happened**

I'll summarise the key points about the dispute.

- Mrs B got in touch with Fortegra about a problem with her sofa. She said some of the seats and cushions had lost resilience. Fortegra said the warranty didn't cover any gradual damage and declined the claim.
- After Mrs B challenged this, Fortegra inspected the sofa. It said the cushion filling had matted and clumped due to general wear and tear. And the foam seat interiors had softened through age and usage. It maintained the claim was declined.
- Mrs B complained. She said the warranty covered excessive loss of resilience – and that's what the inspector said had happened at the visit. Fortegra said the inspector hadn't reported excessive resilience and didn't change its position.
- Our investigator didn't think Fortegra had acted fairly. As Mrs B's recollection of what the inspector said at the visit differed from the inspector's report, our investigator said Fortegra should re-consider the claim by appointing another inspector.
- Mrs B accepted this. Fortegra didn't. It thought it had acted reasonably by declining the claim based on the inspector's report.

## **My provisional decision**

I recently issued a provisional decision in which I said:

- The warranty covers sudden damage for five years. I don't think a loss of resilience is a sudden event, so the damage wouldn't be covered in this way.
- The warranty also covers 'excessive loss of resilience' from years two to five. That's relevant here as the claim was made a few months into year two. The warranty says 'excessive' means "collapsing, sagging or softening by more than 30%". The warranty excludes damage caused by a loss of resilience of less than 30%.
- Both parties agree there's been a loss of resilience. The question is how much.
- The inspector's report is clear they don't think the resilience is excessive. They've explained their professional opinion persuasively. And I haven't seen any evidence to challenge the inspector's opinion.

- However, Mrs B thinks the loss is excessive and she says the inspector specifically told her the resilience was over 30% during the visit.
- There's no objective record of what was said during the visit. But I think it would be unusual for an inspector to say one thing and report the opposite. And the report clearly sets out why the inspector thinks the loss of resilience isn't excessive.
- So, on balance, I'm satisfied it was fair for Fortegra to decline the claim based on the available evidence. Mrs B is entitled to take professional advice about the damage and share it with Fortegra, in which case I'd expect it to consider the matter further.

### **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.

Fortegra responded to say it agreed with my provisional decision.

Mrs B responded to say she didn't accept my provisional decision and made a number of points for me to consider. I won't set out a response to each individual point, I'll summarise my view on the key points she made to explain why I remain satisfied my provisional decision is a fair response to this complaint.

- Mrs B questioned the reference to a 30% loss of resilience and said she hadn't been aware of this threshold prior to making the claim.
- The policy document is the contract of insurance. It's quite clear that a loss of resilience greater than 30% will be covered and less than 30% won't be.
- Mrs B has a document which appears to be from the sofa company. It's not a policy document, but rather it acts as a summary of the cover, so it won't include as much detail as the policy document. It says 'excessive' loss of resilience is covered by the warranty – without reference to a specific threshold. However, I'm satisfied it's clear that not all loss of resilience is covered – it must be 'excessive' to be covered. I think 30%+ is consistent with that.
- Mrs B maintains the loss of resilience is great than 30%. But in the absence of any professional opinion to support that, I consider it reasonable to rely on the inspector's professional opinion provided by Fortegra which says the loss is less than 30%. As I said before, she's entitled to take her own professional advice if she wishes. If she did so, Fortegra would be obliged to consider it.
- I don't think Mrs B has been dishonest or has otherwise misrepresented her genuine view and recollection of events. But I have no objective evidence about the discussion during the visit, so I don't think it would be fair for me to conclude that the inspector acted dishonestly either. In their report, they've committed to a position and clearly set out their reasoning for it. Without any evidence to show that's not their true professional opinion, I'm satisfied I should take it at face value.

### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or

reject my decision before 16 April 2024.

James Neville  
**Ombudsman**