

The complaint

Mr L complains about how Fortegra Europe Insurance Company Limited (Fortegra) dealt with a claim he made for damage to his vehicle.

Fortegra are the underwriters of this policy, i.e. the insurer. Part of this complaint concerns the actions of the agent. As Fortegra has accepted it is accountable for the actions of the agent, in my decision, any reference to Fortegra includes the actions of the agent.

What happened

Mr L has an insurance policy with Fortegra that covers minor damage such as chips or scratches for a period of three years from April 2023.

Mr L made a claim on the policy since there was a chip on the bonnet of his car. The car was taken to Fortegra's authorised repairer. Mr L was told the repair would take up to two days and he was able to use a hire car for that period at a cost of around £40.

When the car was returned to Mr L he wasn't happy with the repair; he says the chip was dabbed with paint rather than being filled and sealed as stipulated by the terms of the policy.

Because he wasn't happy Mr L complained. Fortegra said the chip was filled with paint to seal it; the repair was temporary to prevent rust. It said since the damage was to a horizontal panel a full respray would be required to repair the damage in full, but this isn't something covered by the terms of the policy. Fortegra said the repair had been completed in line with the terms of the policy, and the terms stipulate the appearance may not return to the original pre-damaged appearance. Fortegra said under the policy it was able to pay Mr L £150 towards a body shop repair if he wanted to make a new claim for that. This would involve Mr L repairing his car and submitted an invoice for reimbursement.

Mr L wasn't satisfied with the response from Fortegra so he referred his complaint to this service. One of our investigators looked into things for him. She said she didn't think Fortegra needed to take any further action to resolve the complaint. She said Mr L's complaint had been settled in line with the terms of the policy. The investigator also said the repair turnaround time was two days and Mr L had a choice to use a courtesy car during this period. And so this aspect of the complaint wasn't upheld.

Mr L didn't agree with the investigator's outcome so the complaint came to me to decide.

My provisional decision

I recently issued a provisional decision setting out my thoughts on the key complaint points and how I thought matters might best be resolved. I said;

"I understand Mr L has strong views about what happened and I can empathise with the position he has found himself in. I have read and considered everything I have received carefully. My role is to consider the evidence to reach what I think is a fair and reasonable outcome."

The terms of the policy

The nature of the minor damage protection policy is to cover small repairs that can be undertaken using specific tools, with the work generally taking an hour or so to complete. It isn't a maintenance policy and it isn't intended for larger repairs that are only repairable by a bodyshop. Mr L purchased the policy at the same time as his new car in order to protect the vehicle from minor damage.

I have reviewed the policy terms and condition and they confirm Mr L is covered for minor stone damage. The policy says, "If during the policy term minor cosmetic damage occurs to the bodywork of your vehicle within the territorial limits as a result of the day-to-day motoring, we will cover the cost of a SMART repair by an approved repairer."

Minor cosmetic damage is defined as, "accidental damage to the bodywork of Your Vehicle (damage to the roof, bonnet, boot lid/tailgate or any horizontal surface is limited to stone chip damage only) caused by a sudden and unforeseen incident during day-to-day motoring resulting in:

- A minor stone chip, up to 3mm in diameter, which can be filled and sealed to prevent rust"*

*The policy also defines what is meant by a 'SMART' repair. It says, "any **minor cosmetic damage** to your vehicle which requires a repair that can typically be achieved within one hour that involves using a small to medium area repair technique. Such techniques use specialised tools, paints and materials and avoid the need for a Bodyshop Repair."*

The damage to Mr L's car falls under the definition of minor cosmetic damage and so Fortegra undertook the repair. In its response to Mr L's complaint Fortegra said it had filled and sealed the chip with paint to prevent rust. And that any further repair would require a bodyshop which isn't covered under the terms of the policy.

I know Mr L will be disappointed but I agree with the investigator in that the repair was completed in line with the terms of the policy. The policy has provision within it for work that needs to be completed in a body shop and that suggests the work covered by the policy isn't that which can be carried out in a body shop.

The repair

Mr L has provided photographs of the repair after it had been repaired. From the photographs, I consider that it is clear that there is paint peeling. Fortegra say the repair is only temporary to prevent rust. But there is nothing within the policy terms to say the repairs carried out will be temporary. So I can understand why Mr L isn't happy.

The terms of the policy, and the reason Mr L took it out, is to protect his vehicle from minor cosmetic damage. I don't think Mr L would have taken out a policy that was for temporary repairs. And although the policy is clear the repairs that are covered are SMART repairs – it doesn't say repairs are temporary.

From reviewing the photographs it's clear there is an issue with the quality of the repair given the evidence of peeling. I think it's fair and reasonable for Fortegra to have a responsibility to carry out an effective repair.

Mr L has said he wants Fortegra to repair the entire bonnet in a bodyshop and to provide him with a courtesy car while the repair takes place. But this isn't something he is entitled to

under the terms of the policy. So I don't think it's appropriate for Fortegra to pay for or complete repairs to the bonnet. The terms of the policy do allow for a contribution of £150 towards the cost of a bodyshop repair so that is an option Mr L could consider if that is the work he wants completed.

When taking this all into account I'm satisfied that Fortegra is responsible for fixing the repair and therefore needs to re-do it, at no further cost to Mr L. And without it affecting any claim limits in the policy."

Response to provisional decision

I asked both parties to send me any further evidence or arguments they wanted me to consider.

Mr L agreed with the outcome of the provisional decision.

Fortegra said the fill and seal SMART repair method only applies to horizontal panels. Therefore, other claims to vertical panels on the car would be a permanent repair and usually came with a warranty period. It said that is why there is a caveat in the terms and conditions regarding a minor stone chip that, "*can be filled and sealed to prevent rust*". It said the chip was filled and sealed to prevent rust – that is what was completed and shown in the image provided by the customer, and that is what the policy says.

Fortegra said it agreed to pay £150 contribution towards a body shop repair but it would need to be a claim against the policy. Fortegra said it wouldn't require Mr L to go through the claims process so he would avoid logging and submitting a claim; and once the invoice had been received it would pay him the £150 contribution.

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.

I have carefully considered what Fortegra has said in response to my provisional decision. Having done so my position has not been altered.

I remain of the view the repair has been completed in line with the policy terms. Whilst the 'fill and seal' applies to horizontal panels and the repair was only to prevent rust, I don't think it's clear the repair will be temporary. And I don't think that's fair. So, I think it's reasonable for Fortegra to fix the repair in line with the terms of the policy.

As previously explained I don't think it's fair or reasonable for Fortegra to pay for or complete repairs to the bonnet. The terms of the policy do allow for a contribution of £150 towards the cost of a body shop repair so that is an option Mr L should consider if that is the work he wants completed.

Putting things right

I direct Fortegra to re-do the stone chip repair to fix the peeling paint on Mr L's car at no further cost to Mr L. The policy indicates a one-hour repair time. So, if the repair can't be completed within this time then a car should be provided to Mr L for the duration of the repair.

If Mr L isn't happy to accept a 'fill and seal' to the chip, which is in line with the terms of the policy, then he can arrange to have his car repaired at a body shop. He will need to send the invoice to Fortegra; who will then issue a contribution of £150 towards the cost of the same.

My final decision

For the reasons explained my final decision is to partially uphold this complaint and direct Fortegra Europe Insurance Company Limited to put things right by doing what I've set out above.

My final decision

For the reasons explained my final decision is to partially uphold this complaint and direct Fortegra Europe Insurance Company Limited to put things right by doing what I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 28 May 2024.

Kiran Clair
Ombudsman