

The complaint

Mrs and Mr W complain that Fortegra Europe Insurance Company Ltd has unfairly declined a claim made on their warranty insurance.

What happened

Mrs and Mr W called out a roadside assistance company to their vehicle in early November 2023 after the car was not starting or locking. The agent could not repair the car and it was towed to a local garage. The local garage completed a diagnostic test on the car and identified a number of fault codes present. The diagnostic system used automatically cleared the error codes from the car.

The local garage said it was unable to complete all of the repairs identified as being needed due to some relating to the security system in the car and it would need to be completed by a main dealer.

The car was driven to the main dealer where a full health check was completed and this also identified a number of issues with the car.

Fortegra appointed an independent engineer to complete an assessment on the vehicle so it could determine whether it agreed any of the previous damage/faults identified would be covered by the policy.

Its engineer didn't identify the same number of faults with only one issue identified relating to the clutch. It said this is something excluded under the policy and it declined the claim.

Our investigator looked at this complaint and didn't think Fortegra had acted fairly when declining the claim. They accepted a lot of the issues identified in the initial three assessments of the car, by the roadside technician and two garages, would not be covered by the warranty. But they felt the starter motor and faults identified with this should be. He felt the three assessments made before the independent engineer's report was requested should have been enough to demonstrate there was an issue with the car which should be covered under the policy.

He said when Fortegra failed to recognise this and deal with the claim sooner, it made an unfair claim decision and had delayed the progress of the claim. This resulted in Mrs and Mr W being unreasonably inconvenienced as a result. He recommended Fortegra cover the out-of-pocket expenses incurred by Mrs and Mr W for taxi's, pay the cost of the starter motor repair once provided with an invoice from Mr and Mr W. And pay £350 for the distress and inconvenience added.

Fortegra did not agree with the assessment. It said because the independent engineers report was unable to find the faults previously identified, it didn't think there was an issue with the car covered by the policy. It also highlighted the policy wording and that it didn't believe the definition of "Mechanical Breakdown" had been met with the intermittent fault with the starter motor meaning there was no sudden stoppage of its function.

Our investigator looked at the complaint again and said their opinion remained unchanged. They didn't think it was fair to dismiss three separate opinions on the faults identified with the car. With these being provided, it didn't think relying on the independent report alone was a fair and reasonable approach. And they felt the vehicle not starting as a result of issues with the starter motor would mean there is a sudden stoppage of its function, intermittent or otherwise.

Fortegra continued to disagree and asked that the complaint be referred for 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.

I've decided to uphold this complaint for much the same reasons as our investigator. I know Fortegra will be disappointed by this, but I'll explain why I think it is fair and reasonable that it settles this claim.

As our investigator has highlighted, not all of the faults identified are things covered under the warranty insurance. Mrs and Mr W have accepted this and the decision on this complaint and claim, focuses on the starter motor of the car only and the issues identified with this.

The terms and condition of the warranty allow Fortegra to appoint an independent engineer to assess a vehicle to identify whether any faults or issues are covered under the policy. But I agree with our investigator, that it is fair and reasonable to expect consideration to have been given to the three reports and opinions on Mrs and Mr W's car which proceeded this.

When Mrs and Mr W first called out the roadside assistance company, the car couldn't be started and needed to be towed to a local garage. I think this supports there was an issue with the car and potentially the starter motor at this point.

The policy defines a mechanical breakdown as:

"The failure of a mechanical or electrical component, causing a sudden stoppage of its function, for a reason other than deterioration or negligence. Damage caused by the effect of overheating or abuse is not regarded as a Mechanical Breakdown under the terms of the policy"

So as our investigator has said, the car not starting because of an issue with the starter motor has arguably caused a sudden stoppage of its function. So I am satisfied this meets the definition of the policy, even if intermittent or not.

At the local garage, a diagnostics assessment was completed. This identified a number of intermittent faults with the vehicle including with the starter control. Again, supporting an issue with the starter motor. And following this, an assessment was completed by the main dealer which identified the following:

"Starter clicking battery ok, suspect starter may be faulty due to coolant having leaked onto it"

At this point, three opinions and assessments of the car had identified an issue with the starter motor. And importantly to the later independent assessment, this had been identified as intermittent. So when this wasn't picked up by the later report, it is not persuasive on the point of this fault not being present.

I don't think Fortegra has fairly considered information provided and made a reasonable claim decision. Based on this, I agree it is right it covers the cost of the replacement starter motor as I am satisfied it meets the definition of a Mechanical Breakdown and should be paid.

The delay in this claim being settled resulted in Mrs and Mr W needing to use taxis for a period of time. They were without their car during the Christmas period and this would understandably cause distress and inconvenience and I think it is right this is reflected too. The absence of a vehicle can cause significant disruption, even when over a relatively short period of time and this could have been avoided if a fair and reasonable assessment of the damage and information provided was completed.

So together with covering the out-of-pocket expenses for taxis, Fortegra should pay Mrs and Mr W £350 for the impact of its claim handling and the distress and inconvenience caused.

Putting things right

To put things right, Fortegra should pay the following to Mrs and Mr W:

- £45 to cover the cost of taxi journeys made when they had no use of their car.
- £350 compensation for the distress and inconvenience caused as a result of the handling of this claim.
- Upon receipt of the invoice with the cost set out, a refund to cover the cost of the replacement starter motor with 8% simple interest added from date of invoice to date of settlement.

My final decision

For the reasons I've explained above, I uphold Mrs and Mr W's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W and Mr W to accept or reject my decision before 21 November 2024.

Thomas Brissenden
Ombudsman