

The complaint

Ms C is unhappy with how Fortegra Europe Insurance Company Ltd dealt with a claim on her roadside assistance insurance policy.

The complaint involves agents for whom Fortegra is responsible. Any reference to Fortegra includes the actions of its agents.

What happened

Ms C held a roadside assistance policy underwritten by Fortegra. In January 2024, Ms C experienced trouble with one of her front wheels. She said the wheel was making a loud noise, shaking, and another driver informed her it was bucking. She made it to a service station and discovered two wheel nuts missing and only two left. She phoned Fortegra for assistance. Fortegra said the situation didn't meet its definition of a breakdown because the car wasn't immobile. It suggested Ms C call a mobile mechanic.

A member of the public helped Ms C and found that one of the stud bolts had snapped. They performed a temporary repair. But, by that time, Ms C says garages were closed and she was a long way from home, so she drove somewhere she could stay and intended to go to a garage the next day. However, the next morning, she found further damage and couldn't drive the car. She phoned Fortegra again and was told that this still wasn't covered. Fortegra later said it would provide assistance and then said it wouldn't. Ms C arranged recovery and complained to Fortegra about its decision and its customer service.

Fortegra looked into the complaint. It thought it had acted in line with the terms of Ms C's policy. But it offered to refund Ms C her policy premium if this would resolve the complaint.

Ms C didn't think this was fair, so she referred her complaint to the Financial Ombudsman. Fortegra told our service it wanted to offer Ms C £100 for giving her misinformation. Our investigator looked into things and thought the complaint should be upheld. He thought the car was too dangerous to drive so Fortegra should've regarded it as immobile. He said Fortegra should pay Ms C's recovery costs, with interest, and pay £100 in compensation.

Fortegra didn't agree. It didn't think the investigator had properly applied the policy's definition of a breakdown. It thought if Ms C had called a mobile mechanic as it had suggested then the problem would've been solved. Instead, it thought the temporary repair had made things worse. It also said that if Ms C had had a flat tyre, her policy would have only provided £40 towards a tyre fitter's call-out fee.

As Fortegra didn't agree, the complaint has been passed to me to make a final decision.

What I've decided – and why

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Having done so, I'm upholding the complaint for broadly the same reasons as our investigator. I've focused my comments on what I think is relevant. If I haven't commented on a specific point, it's because I don't feel it affects what I consider to be the right outcome.

I consider the crux of this complaint to be whether or not Fortegra should have provided breakdown assistance to Ms C when she first called. Her policy defines a breakdown as:

"Where the Insured Vehicle is immobile and has ceased to function as a result of:

- an electrical or mechanical failure; or
- (within the UK only) misfuelling or running out of fuel or electrical charge; or
- the failure of the Insured Vehicle's battery; or
- a flat, blown or punctured tyre."

I appreciate Fortegra believes that Ms C's circumstances didn't amount to a breakdown. But this service considers complaints on an individual, case-by-case basis and in a fair and reasonable way.

In this instance, Ms C had contacted Fortegra because one of her wheels was only held on by two wheel nuts, was making a loud noise, shaking and bucking. Ms C thought the car was unsafe to drive and I've noted Fortegra's agent said he wouldn't recommend driving it at all.

Technically, while using the definition most favourable to Fortegra, Ms C's car wasn't completely immobile and hadn't ceased to function. Perhaps it could have been driven further at that time. But I don't think Fortegra applied its policy definition in a fair and reasonable way. I say this because while the car might have been driveable, I don't think it was what most people would regard as mobile. And I'm satisfied the issue arose due to the mechanical failure of the wheel fixings.

Further, I think it's fair to say that the car was not at all safe or sensible to drive, and to do so would have almost certainly caused further damage and potential harm to Ms C and others. Ms C also isn't a mechanic which is why she had breakdown cover in place.

I appreciate Ms C was able to drive the car after a member of the public carried out a temporary repair, and I acknowledge that this may have made things worse. But I don't think that repair, or Ms C's further journey, should have been necessary, because I think Fortegra should have provided assistance.

I also don't think Ms C acted unreasonably following Fortegra's refusal. She accepted help from somebody claiming to be a mechanic. And she's explained that she didn't take the car to a garage that evening because the garages were closed, she was a long way from home and by herself, so she travelled somewhere closer where she could stay. Further, I don't think it's relevant that the policy only offered £40 in the event of a flat tyre because this wasn't what Ms C was dealing with.

Overall, I think Ms C's losses flow from Fortegra's refusal to provide assistance. And I don't think Ms C acted unreasonably in the interim. So, I think a fair outcome is for Fortegra to reimburse Ms C's recovery costs. She's provided an invoice showing that this cost her £380. Fortegra should add 8% simple yearly interest to this, from the date the invoice was paid to the date it settles the complaint.

Further, I think Fortegra's refusal to provide assistance caused Ms C unnecessary distress and inconvenience. I appreciate breaking down always would have been stressful. But I think Fortegra's refusal to help, along with the misinformation it provided, made things worse. I think the £100 compensation Fortegra offered was fair to recognise this and is in line with what I would have awarded. So, Fortegra should pay this to Ms C.

Putting things right

To resolve this complaint, Fortegra must:

- Reimburse Ms C £380 for her recovery costs,
- Add 8% simple interest per year* from the date the invoice was paid to the date of settlement, and
- Pay Ms C £100 compensation for distress and inconvenience.

*If Fortegra considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Ms C how much it's taken off. It should also give Ms C a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

For the reasons set out above, I uphold Ms C's complaint and direct Fortegra Europe Insurance Company Ltd to put things right as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms C to accept or reject my decision before 16 September 2024.

Chris Woolaway
Ombudsman