

The complaint

Mrs M is unhappy with the offer Fortegra Europe Insurance Company Limited ("Fortegra") made to settle her claim under her furniture warranty.

What happened

The background to this complaint is well-known to both parties. So, I've set out a summary of what I think are the key events.

Mrs M bought a sofa for £2,097 in 2021. At the same time, she took out a 5-year policy which provided cover for accidental damage. In 2023, two seat cushions were accidentally stained so she claimed under the policy.

Fortegra inspected the damage and accepted the claim. The seat cushions were no longer available, so Fortegra offered a replacement sofa up to the amount Mrs M originally paid, or £1,048 (50% of the purchase price) as a cash settlement to live with the sofa as it was. Mrs M asked for the replacement sofa.

When Mrs M looked for the sofa, she found the retailer had ceased trading. Fortegra said she could choose a replacement from a different retailer with the same owner, who also designed the sofa. When Mrs M looked again at the sofas available, there was nothing close to the amount Fortegra offered. So she asked if she could choose from a different retailer.

Fortegra said it had offered a replacement from the retailer with the closest link to the original retailer and its offer was in line with the policy. Fortegra pointed out that Mrs M could choose to take the cash option and buy a sofa from anywhere she chose.

Mrs M didn't think the offers were fair and she complained to Fortegra.

Fortegra responded to the complaint. It said the policy terms and conditions provided a replacement up to the original retail value and Mrs M could pay the difference if her preferred sofa cost more. It reminded her that she could choose the cash option. But Mrs M remained unhappy with the offers, and she brought her complaint to us.

One of our investigators looked at Mrs M's complaint and she didn't think Fortegra had handled the claim fairly. She said the policy didn't say that the cash settlement would be half the price paid, and she didn't think Fortegra had made a fair offer to limit the replacement to the retailer it chose. Our investigator thought Fortegra should replace the sofa in line with the policy or pay a cash settlement equal to the original purchase price. Further, she thought £100 compensation was warranted for the inconvenience caused.

Fortegra didn't agree. It pointed out the policy terms relevant to the claim and maintained that it had made fair offers. It justified the cash settlement as equal to the cost of a repair and provided example cases which had been decided in its favour with the same circumstances. Our investigator responded to its further comments, but Fortegra asked for an ombudsman's decision. So, the complaint was passed to me to decide.

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've decided to uphold Mrs M's complaint for broadly the same reasons as our investigator. I'll explain.

The relevant regulator's rules say that insurers must handle claims promptly and fairly. And that they mustn't turn down claims unreasonably. My role is to decide whether Fortegra handled the claim fairly and reasonably, in all the circumstances, and in line with the policy. I won't repeat the detail here. Instead, I'll focus on the key points and give the reasons for my decision.

Fortegra accepted the claim, and tried to source parts for repair. However, as the parts were not available, the dispute is only about the settlement offers.

Replacement

The policy says:

Section 3 – What is covered

3. If a repair cannot be achieved, we may choose to replace the damaged part. If this is not possible, Guardsman may provide a replacement product(s) ... instead of a repair or replacement (up to the limit of cover).

Mrs M chose this option and, if the retailer had still been trading, the matter may have been settled promptly. But, because the retailer had ceased trading, Fortegra directed Mrs M to the parent company. I don't think that, in itself, was unreasonable. The problem here is that the retailer sold higher end furnishings, such that Mrs M wasn't able to replace her sofa with the sum available to her. The policy says that any price difference must be met by Mrs M, which again isn't unreasonable in itself. But she reported that the difference would be £7,000 and wasn't reasonable.

I've looked at the retailer in question and, while it may be possible to replace the sofa for less than Mrs M stated, I agree that there's a significant price difference. The lowest price I saw was £5,000 and that was without trying to match with a similar specification.

Looking again at the policy, I can't see anything to indicate that a replacement must be from the same retailer as the original purchase. Although this information is provided in the response to Mrs M's claim, I haven't seen any evidence that she would've been aware of this before purchasing the policy or before making her claim. So, based on the evidence, I don't think Fortegra's offer to limit Mrs M's replacement to that one retailer was fair in the circumstances.

Cash settlement

The policy says:

Section 3 – What is covered

3. If a repair cannot be achieved, we may choose to ... settle the claim by a cash payment at Guardsman and your Insurer's discretion ... Any cash settlement will be limited to the equivalent cost of repair or replacement by Guardsman.

I accept that the terms and conditions allow for insurer's discretion, and that it may be limited to the cost of repair or replacement. However, I don't think that applies fairly in Mrs M's circumstances.

- She hasn't refused a repair – Fortegra can't provide one. So, there isn't, strictly, a repair cost that would limit the cash settlement.
- She hasn't refused a replacement – she just can't buy one for the amount Fortegra is offering *from the retailer it has specified* without being significantly out of pocket.

So, when Fortegra offered a cash settlement, it should've been enough to allow her to replace her sofa up to the policy limit. That is, the original purchase price.

Example cases

Fortegra reasonably pointed out that it takes guidance from previous complaint decisions made by this service when it settle claims. Therefore, it challenged the outcome of Mrs M's complaint because it contradicts others it has had.

Each case is individual, however similar the circumstances may seem. That said, the example Fortegra gave is notably different. The policyholder didn't like any of the furniture options and chose a cash settlement. Here, Mrs M simply hasn't been given the option of choosing from a retailer which is similarly priced to the one from which she originally purchased her sofa.

Compensation

Looking at the evidence, Mrs M just wanted to be able to choose a replacement sofa. She said she would've replaced from the original retailer and didn't want something more expensive. If it happened to be more expensive, then she understood she'd need to pay the difference. Understandably, she wasn't happy to pay the significant difference forced on her if she had to select from Fortegra's chosen retailer.

I haven't seen anything in the evidence to suggest that Mrs M was trying to get more than she was entitled to under the policy, yet Fortegra seems to have put barriers in the way of settling the claim. Therefore, I think £100 compensation is fair and reasonable in recognition of the unnecessary delay in settling the claim and the inconvenience Fortegra caused.

Conclusion

Overall, the evidence persuades me that Fortegra didn't make fair or reasonable offers to settle Mrs M's claim, and it fell short of what she might've reasonably expected from its claim handling.

My final decision

For the reasons I've given, my final decision is that I uphold Mrs M's complaint and Fortegra Europe Insurance Company Limited must:

- provide for a replacement sofa in line with the policy without restricting to one retailer, or settle the claim with a cash payment up to the policy limit, and
- pay Mrs M £100 compensation for the inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 25 November 2024.

Debra Vaughan
Ombudsman