DRN-5714662

The complaint

Mr B complains that Financial & Legal Insurance Company Ltd (F&L) declined a claim on his motor warranty.

What happened

The events are well known to both parties, so I've only summarised them. Mr B took out a motor warranty with F&L in July 2024. In late November 2024, the car wouldn't change from petrol to hybrid mode. The fault was diagnosed by a main dealer that the waste gate of the turbo had excessive movement in the linkages and waste gate itself. This was causing a fault code and stopped the car from switching power methods.

Mr B raised a claim with F&L which was declined. F&L said the issue was caused by wear and tear which was excluded under the policy. Mr B raised a complaint but this wasn't upheld by F&L. Mr B was still unhappy so brought the complaint to this service.

Our investigator upheld Mr B's complaint. She felt the claim had met the terms of the policy. F&L appealed. They felt the minimum life expectancy of the turbo had been reached and the issue was caused by wear and tear which was excluded. As no agreement could be reached, the complaint has been passed to me to make a final 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.

When considering complaints such as this, I need to consider the relevant law, rules and industry guidelines. The relevant rules, set up by the Financial Conduct Authority, say that an insurer must deal with a claim promptly and fairly, and not unreasonably decline it. So, I've thought about whether F&L acted in line with these requirements when it declined to settle Mr B's claim.

As a starting point, it's important to understand what the policy says. The policy sets out what Mr B is covered for:

"*The following components and associated labour costs are covered against mechanical breakdown…*

Turbocharger: *The complete unit is covered providing it is original manufacturer's equipment including the wastegate if it is an integral part of the unit and cannot be bought separately. Excludes pipes & hoses.*"

So, the damaged item is covered by Mr B's policy. The policy further defines mechanical breakdown as:

"*means the sudden and unforeseen failure of a component arising from any permanent mechanical or electrical defect (for a reason other than wear and tear, normal deterioration or negligence) causing sudden stoppage of its function, necessitating the immediate repair* *or replacement of the component before normal operation can be resumed. We are not liable for parts that have reached the end of their normal working lives because of age or usage*".

Wear and tear is also defined in the policy as:

"*means damage to components that have reached the end of their normal effective working lives because of the gradual reduction in operating performance.*"

F&L had an independent assessor review the car. He confirmed the following:

"*The waste gate of the turbo has excessive movement in the linkages and waste gate itself. The turbo spins freely with no excessive movement in any direction. The turbo has no visible damage or breakages present. The waste gate's excessive movement is creating a fault code which will not allow the vehicle to be driven in electric mode due to the fault stored. Therefore, we would not consider this a sudden mechanical failure, and the failure is due to in service wear and tear.*"

Mr B arranged for the car to be repaired. His garage provided the following report:

"*Upon inspecting the turbo fitted to this car we found that the mechanism controlling the wastegate had failed causing excessive free play and not allowing the wastegate to close properly and build boost…*

We also noticed excessive movement on the turbine wheel and compressor wheel bearings that would have caused catastrophic engine damage if left…

It's surprising to see so much excessive movement on the turbo given that the mileage is so low and the car being a hybrid configuration the engine won't be running all the time during the mileage it has accumulated. In my opinion this isn't normal 'wear and tear' but an underlying issue with this particular turbocharger."

Many car parts will gradually deteriorate over time. Most of these parts will fail at some point because they're worn out. However, there's a difference between a part failing when it's worn out as expected and when it fails quicker than expected. As a service, we wouldn't expect an insurer to decline a claim for wear and tear when a part has failed sooner than expected, unless this was shown to be due to poor maintenance.

F&L initially told us that the life expectancy of the turbo was 50,000 miles. I asked F&L to provide some additional information to confirm what data was used to come to this conclusion. F&L referred the request to their third-party claim handlers. They provided the following response:

"*I have discussed the matter with [Staff member] our operations manager and he has advised that on reflection we would not have a strong enough case.*

The issue with the linkage would not have been affected by anything related to service and would be premature given the vehicle mileage."

Based on F&L's most recent response, I'm satisfied that the turbo has failed sooner than expected. F&L hasn't provided any maintenance issues caused by Mr B as to why the part has failed sooner than expected. So, I think the claim meets the terms of the policy and it was unreasonable for F&L to decline the claim.

I appreciate that it must have been frustrating for Mr B to have his claim declined as it's meant he’s not been able to use the car. Although this is a distilled version of events, I’ve considered everything in the round and I think Mr B has been caused considerable distress, upset and worry which has taken a lot of extra effort to sort out over several months. In line with our website guidelines, I agree with our investigator that an award of £300 compensation is fair and reasonable.

Mr B has informed us that he had to take out a loan alongside using his savings to cover the cost of a temporary car and to cover the repairs. The temporary car has now been sold, and the loan has been paid back early, minimising the interest. As the claim shouldn’t have been declined, I think F&L should cover Mr B’s interest on the loan, this came to £117.95. They should also pay interest on his savings from the date he was invoiced by the garage for the repairs, this was 20 January 2025.

Putting things right

To put things right, F&L should do the following:

- Settle Mr Bs claim in line with the policy terms and conditions
- Pay Mr B £117.95 to cover the interest paid by Mr B.
    - F&L can request evidence of interest from Mr B to verify this before payment is made.
- Pay Mr B 8% simple interest* on his savings used, £3,929.47, from 20 January 2025 until the date of payment.
- Pay Mr B £300 to cover the trouble and upset caused.

* If F&L considers that it’s required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr B how much it has taken off. It should also give Mr B a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

For the reasons I’ve explained above, I uphold this complaint and direct Financial & Legal Insurance Company Ltd to put things right by doing as I’ve said above.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr B to accept or reject my decision before 24 September 2025.

Anthony Mullins
Ombudsman