

## **The complaint**

Mr A complains that Financial & Legal Insurance Company Ltd unfairly declined a claim he made on his motor warranty.

Reference to Financial & Legal includes its agents.

## **What happened**

Mr A held a motor warranty with Financial & Legal. When his car broke down, he took it to a garage to be repaired. The garage thought the problem was with the turbo, so, Mr A made a claim.

Financial & Legal declined Mr A's claim. It said the likely cause of the failure was wear and tear, something excluded from the policy. And it said the part was disposed of before an independent engineer could assess the cause of the fault.

Mr A didn't think this was fair and complained. He also said Financial & Legal was rude to him when dealing with the claim.

Financial & Legal didn't change its stance or address the point about Mr A saying it was rude to him. So, Mr A brought his complaint to the Financial Ombudsman Service.

Our Investigator recommended Mr A's complaint be upheld. She didn't think Financial & Legal had fairly shown the cause of the fault was wear and tear. And she thought that if it wanted to assess the part, it should have sent an engineer earlier, before declining Mr A's claim. She recommended Financial & Legal pay Mr A's claim.

She also said because nothing was provided about the alleged rudeness, she hadn't anything to evidence Mr A's allegations being unfounded. So she recommended Financial & Legal pay him £150 compensation.

Mr A accepted this assessment. Financial & Legal didn't and asked for an Ombudsman's decision. It said it arranged for the inspection quickly, within the timeframe given by Mr A himself. It said the disposal of the part prejudiced its position to show that wear and tear was the cause of the fault. It made no comment on the compensation award for the attitude of its staff.

I issued a provisional decision explaining that I wasn't thinking of requiring Financial & Legal to pay Mr A's claim. That decision said I was still thinking of requiring it to pay Mr A compensation though. It said:

*"Financial & Legal's staff being rude to Mr A*

*Like our Investigator pointed out, we've not had any information from Financial & Legal to counter Mr A's allegation. So, that means the only evidence we have is Mr A's testimony. And based on that, I think being spoken to in a rude manner would have likely caused distress and inconvenience to him. So, like our Investigator I'm satisfied compensation of £150 is a reasonable amount to account for that.*

### The claim

*Financial & Legal initially declined the claim on the basis the fault was caused by wear and tear, something excluded from the policy. It did so after reviewing video footage sent by Mr A's repairer.*

*As our Investigator pointed out, this is something it's entitled to do. But, in order to fairly rely on the wear and tear term, we'd expect the insurer to show the part had reached the end of its expected life.*

*Financial & Legal thinks it's done this, and it's pointed to a previous repair and the mileage of the car to support its finding.*

*I'm not going to make a finding here on whether I agree with Financial & Legal's position on the cause of the failure. And that's because I'm satisfied its position was prejudiced by Mr A's (or his repairer's) actions.*

*From what I've seen, Mr A disputed Financial & Legal's decline of his claim. He was entitled to do that and it was up to Financial & Legal to defend its position if it wished to do so. On the back of that Financial & Legal agreed to get the failed part assessed by an independent engineer.*

*Mr A agreed to this and advised that the engineer would need to arrive before a certain date, a Friday of the same week, because the car was in the process of being repaired and the repairer would be sending the part off to receive a surcharge. Financial & Legal arranged for an inspection to be carried out the same day, but told Mr A that it wasn't in control of that engineer's schedule and asked that if the repairs were carried out before the engineer could attend, that the turbo be kept for the engineer to inspect.*

*The engineer was booked for the Thursday (before the given deadline of the end of the week), but when the engineer attended, the part had been sent off and wasn't available for inspection.*

*Based on this, I'm satisfied Financial & Legal's position has been prejudiced here. It arranged an engineer to attend in a reasonable time frame after the claim decision was disputed, and that engineer attended before the deadline Mr A himself gave. Financial & Legal was clear in that it would need to assess the part.*

*So, whilst I understand Mr A was unhappy with the declined claim based on video evidence alone, he (or the garage he opted to use) are responsible for that part then not being available to inspect.*

*Because of that, I'm satisfied it's fair and reasonable for Financial & Legal to decline this claim. Its initial thoughts were that the part had failed due to wear and tear, something excluded from cover. But importantly, it was prevented from evidencing that point. So it's not been able to determine whether or not the claim is valid. In that circumstance, I can't reasonably require it to pay Mr A's claim."*

Financial & Legal accepted my decision. Mr A didn't. In summary he said:

- Financial & Legal were too slow to act and should have attended his car earlier – he disputes that he prejudiced his position and argues it prejudiced his.
- Financial & Legal knew from the point the claim was made that the car was awaiting repair and the part would only be available for a limited time.
- Financial & Legal hasn't shown the part failed due to wear and tear.

## **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, my decision remains unchanged. I'm not requiring Financial & Legal to pay Mr A's claim. But it does need to pay him £150. I'll explain why.

Neither party disputes the £150 compensation, so I need not explain that further. My reasons remain the same as those set out in the provisional decision above.

Turning to the claim, I understand Mr A's point, but I disagree. I'm still persuaded it was his (or his agent in the form of the repairing garage) that prejudiced Financial & Legal's position and not the other way around. I appreciate Mr A has said Financial & Legal could have sent an engineer out quicker. I agree it could. And I agree Financial & Legal knew the clock was ticking in terms of how long the part would be available to inspect.

But key here is Mr A said the part would be available until Friday, and the engineer came before then, on Thursday, and the part was gone.

I appreciate Mr A has said one video doesn't prove the part failed due to wear and tear. And I agree it doesn't here. But Financial & Legal was denied the opportunity to inspect the part (or more accurately have an independent third party engineer inspect it). It's not been able to validate the claim and for that reason I find it reasonable it doesn't pay it.

## **My final decision**

For the reasons set out above, my final decision is that I uphold this complaint. To put things right, Financial & Legal Insurance Company Ltd needs to pay Mr A £150 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 23 October 2025.

Joe Thornley  
**Ombudsman**