

The complaint

Mr G complains that West Bay Insurance Plc (formerly Zenith Insurance Plc) mishandled a claim on his motor insurance policy.

Where I refer to Zenith, I include the intermediary and others insofar as I hold Zenith responsible for their acts or omissions.

What happened

The subject matter of the claim and the complaint is a car first registered in 2004. On 9 December 2020, the car passed an MOT with a recorded mileage of about 173,000.

For the year from April 2021, Mr G had the car insured on a comprehensive policy. The policy was arranged and administered by an insurance intermediary. Zenith was the insurance company responsible for dealing with claims.

Unfortunately, Mr G reported that, on 9 July 2021, a third party cyclist had lost control on a pavement and hit Mr G's car on the front and nearside.

Mr G complained to the intermediary that the policy should've included a protected no-claims discount ("NCD"). By a final response dated 26 July 2021, the intermediary upheld that complaint. It confirmed that the NCD was protected and said it was sending Mr G a cheque for £30.00 compensation for poor service.

By another letter to Mr G also dated 26 July 2021, Zenith mentioned the alternatives of repair of the vehicle or total loss payment with a fee if Mr G retained the vehicle. The letter included the following:

"If you choose to retain your vehicle, your cover will immediately drop to Third Party Only. You then have 60 days in which to repair your vehicle and to provide us with an engineer's report and MOT certificate as confirmation that the vehicle is roadworthy; your cover will then be reinstated to Fully Comprehensive."

On 17 August 2021, Zenith got an engineer's report. It estimated the pre-accident value of the car at £1,200.00 and the cost of repair as about £3,800.00. It said that the car was a total loss in "Category N".

Mr G received a settlement as follows:

Pre-accident value	£1,200.00
Less retention fee	£ 192.00
Less excess	£ 150.00
Total	£ 858.00

Zenith wrote a letter to Mr G dated 19 August 2021. It included the following:

“There is a requirement to repair your vehicle back to its pre-accident condition within 60 days of receiving this letter...

Your cover will be reduced to Third Party liabilities until such time as we receive the following documentation to evidence this and allow us to reinstate full cover

- *A post-repair Independent Engineers Report*
- *A post-accident MOT certificate*

...

Should you fail to supply this documentation within 60 days we may proceed to cancel your policy.”

Mr G complained to Zenith that it had gone from requiring a repair to the standard that the car was “roadworthy” to requiring a repair to the standard that the car was in “*pre-accident condition*”.

By a final response dated 10 September 2021, Zenith turned down Mr G’s complaint. Mr G brought his complaint to us within a few days.

In early October 2021, (a couple of months before his old MOT was due to expire) Mr G got a new MOT certificate and sent it to Zenith.

By a letter dated 22 November 2021, Zenith gave notice that it would cancel the policy with effect from 1 December 2021. On 2 December 2021, Zenith wrote a letter to Mr G confirming that it had cancelled the policy with effect from the previous day.

Our investigator recommended that the complaint should be upheld in part. She thought that Mr G hadn’t been given clear information to be able to make an informed decision. She thought that the change in what was required caused Mr G quite a bit of stress, worry and inconvenience, that could’ve been avoided. She didn’t think that the policy was cancelled fairly in accordance with its terms. She recommended that Zenith should:

1. treat the policy as cancelled by Mr G; and
2. offer Mr G £200.00 compensation for not giving him clear information from the start.

Mr G agreed with the investigator’s opinion, save that he considered that £200.00 was “light”.

Zenith disagreed with the investigator’s opinion. It asked for an ombudsman to review the complaint. It says, in summary, that:

- The letters dated 26 July and 19 August 2021 each required 3 things: repairs, an engineer’s report and an MOT certificate.
- Mr G made no attempt to make any repairs or provide an engineer’s report.
- If Mr G had made some repairs and provided an engineer’s report to this effect, then Zenith might accept the argument that the wording of putting the car back to its pre-accident condition may’ve been confusing. But he’s not done that, therefore, the cancellation was fair.

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.

Zenith's policy terms included the following:

"General Conditions

...

2 Looking after your car

*You or any permitted drivers are required to maintain the **insured vehicle** in a roadworthy condition...*

3. Having an MOT certificate

*There must be a valid Department for Transport test certificate (MOT) in force for the **insured vehicle** if one is needed by law.*

...

6 Cancellation

...

Cancellation by us

***We** can cancel this policy at any time if there are serious grounds to do so, including but not limited to the following examples:*

...

***You** have failed to co-operate or provide information and assistance in relation to any claim under this policy or with regards to the administration or operation of this policy;
or
where you fail to maintain the insured vehicle in a roadworthy condition, or you fail to look after it in accordance with General Conditions 2 and 3 of this policy".*

So Zenith's terms provided that it could cancel the policy if there were serious grounds to do so - of which it gave some examples. One example was failure to maintain the vehicle in roadworthy condition.

Zenith's engineer's estimate of as £3,869.10 must've been to bring the car back to its pre-accident condition.

After the engineer's report, Mr G decided to keep the car. I find that – at that stage – he must've expected the cover to drop from comprehensive to third party until he got the car repaired to the standard that it was roadworthy. But his car was only worth salvage value. So he may not have felt the need for comprehensive cover.

And it wasn't until Zenith's letter dated 19 August that it told Mr G that failure to comply with its requirements would result in cancellation of the policy. Furthermore, its requirements for repairs and a report changed from showing the car was "roadworthy" to showing it was in "pre-accident condition".

The cyclist had hit the car and damaged it. From Zenith's engineer's report and the photographs and the latest MOT certificate, I find it likely that Mr G's car had remained roadworthy, and he could've got a report saying that. But I think Zenith's higher standard of "pre-accident condition" deterred Mr G from incurring the costs of getting a report.

So I don't consider that Zenith treated Mr G fairly by changing its requirements after he'd made his decision to keep the car. And I don't consider that Zenith treated Mr G fairly by suggesting, and later actioning, a cancellation.

Mr G hasn't told us that he had to buy more expensive insurance from December 2021. So I don't find it fair and reasonable to direct Zenith to pay compensation for a financial loss.

But the record of cancellation by an insurer is likely to affect a policyholder for some years to come.

Putting things right

So I find it fair and reasonable to direct Zenith to write a letter to Mr G (which he may show to current or future insurers) saying that it cancelled his policy unfairly and that it has removed any adverse entry from any database to which it has sent information about the cancellation.

From the correspondence, I've seen that – by not treating Mr G fairly – Zenith caused him upset and put him to some trouble beyond that which should be expected in connection with an insurance claim. That has gone on since late July 2021. So – all things considered – I find it fair and reasonable to direct Zenith to pay Mr G £200.00 compensation for distress and inconvenience.

My final decision

For the reasons I've explained, my final decision is that I uphold this complaint in part. I direct West Bay Insurance Plc (formerly Zenith Insurance Plc) to:

1. write a letter to Mr G saying that it cancelled his policy unfairly and that it has removed any adverse entry from any database to which it has sent information about the cancellation; and
2. pay Mr G £200.00 compensation for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 28 March 2022.

Christopher Gilbert

Ombudsman