

The complaint

Mr B1 and Mr B2 have complained about their let property insurer West Bay Insurance Plc. They believe it delayed their two claims for theft, which allowed a further incident to occur. They report financial loss and stress caused as a result.

Mr B1 has mostly dealt with this claim and complaint. So, for ease of reference, I'll mostly only refer to him throughout. But his views and comments should be taken to represent them both.

What happened

In July 2018 there was a theft involving some copper piping at the property Mr B1 and Mr B2 own and let out. A loss adjuster visited on 20 July 2018. In November 2018, before repairs could be arranged to the relatively minor damage, it transpired the tenant had left and a further break-in, with more substantial damage being caused, had occurred. Another loss adjuster visited in mid-December 2018. Repairs didn't progress at that time and, when contractors attended for a pre-start meeting in late October 2019, the property had been broken into again, with some further damage having been done. Contractors for repair were instructed in January 2020, with repairs nearly done at the time the national lockdown occurred, delaying completion. The house was finished on 7 July 2020, put on the letting market shortly thereafter with tenants found in August and their tenancy starting on 1 September 2020.

West Bay felt there had been some delay on its part, but not much. It offered £100 compensation. And waived one policy excess for the damage claims, but charged three for loss of rent – which it paid 20 months of. Mr B1 was unhappy. He felt the third incident could have been avoided completely – so it wasn't fair for a third excess for lost rent to be paid. On that note he felt payment should be at the increased rate the new tenant was paying him and that 22 months should be covered. He'd been paying council tax throughout (with some deductions), but felt if the house had been re-let sooner, the tenant would have been paying that. He didn't think £100 compensation was enough in the circumstances.

Our investigator felt there had been some delays. Overall she thought total compensation of £200 for distress and inconvenience was a fair and reasonable resolution to the matter. West Bay agreed but Mr B1 was disappointed. In short, he felt a payment like that ignored the financial loss that had been suffered. He asked for an ombudsman's consideration.

Mr B1 and Mr B2's complaint was passed to me. I felt there had been some delays which had significantly affected the first and second claim resolving, and which had allowed the third break-in to occur. I felt West Bay should reimburse the council tax Mr B1 and Mr B2 had paid when the property should have been tenanted, as well as the third loss of rent excess and two month's lost rent. I also felt £500 compensation should be paid.

Mr B1 and Mr B2 said they were happy with the decision. West Bay said it had nothing further to add and it accepted my findings.

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.

I said provisionally:

"A lot has happened during the course of these claims. I've read and understood everything but I've kept my background above brief, and even in my findings here, I don't intend to mention everything and each concern raised. Rather I'm going to focus on the key issues of delay which I think allowed the third incident to occur. An incident which I think would likely have been avoided if the property had been reinstated in a reasonable time after the second break-in.

I have no concern about how things were handled until the point of the second break-in. The tenant becoming ill and not being able to respond to communication by West Bay or its contractors was unfortunate and unavoidable. Much like the second break-in. But then there were a series of failures by West Bay which I'm satisfied caused the claim to become unreasonably delayed. I've summarised these here:

- *Miscommunication between adjusters caused a misunderstanding about further damage having occurred in January 2019.*
- *West Bay's contractor wasn't given correct contact details so, unable to contact the tenant for access, it closed its file and didn't quote for repairs.*
- *The adjuster missed quotes submitted by Mr B1, but didn't chase him or West Bay's contractor for progress. This wasn't rectified until May 2019.*
- *When West Bay's contractor did visit the property at the end of May 2019 to scope for work, its initial schedule was vague and incomplete. It had to be redone.*
- *Responses to Mr B1 in July – September 2019 about how to settle the claim and why a second excess was due were slow and sometimes lacking in clarity.*

All of this meant the claim didn't progress between the meeting at the property in December 2018 and 9 October 2019 when Mr B1 paid the second excess. I think that period of delay was avoidable. I see no good reason why, the loss adjuster having been at the property in mid-December 2018, a properly managed claim, the errors above being avoided, wouldn't have progressed speedily in January 2019. And progressed in such a way that meant costs were established by the end of that month, with some time for discussions and prep work taking place in the weeks that followed, before repair work started at the end of February 2019. If that had happened, and given we know that work in 2020 was mostly complete within three months, I think it's fair to say work would have completed by the end of May 2019. I can't see any reason why it would likely have taken longer than that.

Now it's fair to say we don't know exactly when the third break-in occurred. Only that it had happened before the meeting at the end of October 2019 at which point it was discovered. But West Bay's contractor visited the property at the end of May 2019 to schedule the work. So the third break-in had definitely not occurred at that time. And I think the house having been left for a such a long time empty and in a state of dis-repair was likely key in being broken into at some time between May 2019 and October 2019. So it stands to reason that if repairs had been completed by the end of May, as I think they reasonably should have been, the further break-in wouldn't have occurred. Rather the house would have been in a better state and being visited more regularly, with a new tenant likely being in-situ from the start of August 2019. Meaning the house was no longer an attractive proposition for thieves.

So the third break-in wouldn't have occurred. But also based on the tenancy agreements I've seen – one for the previous tenant and one for the new tenant – the tenant would have been responsible for paying the council tax. So West Bay reasonably owes Mr B1 and Mr B2 for the third loss of rent excess (£250) and the council tax paid August 2019 – August 2020 inclusive (£1,393.33). Both plus interest; for the £250 from the date West Bay deducted this from the rent settlement, and for the council tax, on each sum that makes up that total which Mr B1 paid from the date of payment until settlement is made.*

In respect of the rental loss itself, Mr B1 and Mr B2 are entitled under the policy to rent receivable. So that is the rent they had been getting from the tenant that left in late 2018. And even though avoiding delays would have meant a new tenant could have taken residence in August 2019, I simply don't know if it's most likely that tenancy would have been agreed at the higher rate which was achieved a year later. The fact that in 2020 the rent was higher than it was in 2018, doesn't mean it would have been charged at the 2020 rate in 2019. I'm satisfied that it's fair for West Bay to pay Mr B1 and Mr B2 for lost rent at the 2018 rate. But I do think it owes a further two months rent.

West Bay paid 20 months of lost rent. That meant Mr B1 and Mr B2 were reimbursed for losses to the end of June 2020. But their loss continued until the new tenancy began at the start of September 2020. They'd have been receiving rent in July and August 2020 if repairs had completed the year before. So I think West Bay should pay Mr B1 and Mr B2 £726.62 for two months rent, plus interest on each part that makes up that total, applied from 2 July 2020 and 2 August 2020 respectively, which is the date those rent payments would have been due, if tenants had been in place.

The final thing for me to give consideration to is compensation for non-financial loss. As I've explained, I think this situation went on for far longer than it should have done. And that naturally means more upset and worry was caused than otherwise would have been. Not least of that was knowing the property had suffered a third and avoidable instance of damage. And that communication wasn't handled well either – Mr B1 wasn't told for over a month because the loss adjuster thought the letting agent would tell him. Whilst the letting agent should have done so, the loss adjuster should also have been keeping Mr B1 apprised of the claim's progress – and the further damage was a key issue that impacted that. So the loss adjuster should have let Mr B1 know – had he done so that would have avoided the further worry and frustration Mr B1 was caused when he was belatedly made aware of the third incident.

There were some other wrinkles along the way too that caused frustration – such as the poor communication about settlement and excess. But also there was a poorly handled issue about under insurance. This didn't in itself cause a delay, so I didn't mention it earlier. But, in short, the first loss adjuster measured the property incorrectly and, several months later, out of the blue, Mr B1 was told his claim would likely only be partially settled. It then took some weeks and a fair degree of correspondence for it to be established that the measurement was wrong and there was no under insurance.

Overall the first and second claims should have been resolved by the end of May 2019, with the property re-tenanted from August 2019. Instead matters dragged on, with repairs, when the finally began, ultimately becoming impact by the pandemic. Such that the claims, then three instead of two, weren't resolved until July 2020, with the property not re-tenanted until September 2020. To make up for all of the upset caused, I think £500 compensation is fairly and reasonably due.”

As the parties are happy with and/or have accepted my provisional findings, I've no need to change them. My provisional findings are now the findings of this, my final decision.

Putting things right

I require West Bay Insurance Plc to pay Mr B1 and Mr B2:

- £1,393.33 as reimbursement of council tax payments, plus interest* on each sum that makes up this total, from the date the bills were paid until settlement is made.
- £250 as reimbursement of the third policy excess charged for lost rent, plus interest* from the date £3,414.79 was paid by it (as this was net the £250 excess).
- £726.62 as reimbursement of lost rent for July and August 2020, plus interest* on each £363.31 that makes up this sum, one starting on 2 July 2020 and one on 2 August 2020, being the date these sums should have been received, each until settlement is made.
- £500 compensation for distress and inconvenience.

*Interest is at a rate of 8% simple per year and paid on the amounts specified and from/to the dates stated. HM Revenue & Customs requires West Bay to take off tax from this interest. It must give Mr B1 and Mr B2 a certificate showing how much tax it's taken off if they ask for one.

My final decision

I uphold this complaint. I require West Bay Insurance Plc to pay the redress set out above at *"putting things right"*.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B1 and Mr B2 to accept or reject my decision before 18 April 2022.

Fiona Robinson

Ombudsman