

The complaint

Mr D has complained that The Baxendale Insurance Company have not offered a fair settlement for replacing his damaged piano.

What happened

Mr D held international move insurance with Baxendale.

In August 2020 Mr D moved house and his piano was damaged in transit. The piano is a Yamaha Disklavier MXP70N which plays strings and digital music and records. Mr D is a professional musician and composer and the piano is integral to his work.

Baxendale asked Mr D for an expert report on the damage, which reported that it was unrepairable and so a total loss.

Baxendale agreed to pay cash for an item of similar quality in line with the terms of the policy.

Mr D says the to replace the piano with a similar model would cost £14000. Baxendale have offered £5000 as a settlement they say a replacement can be obtained for that.

Mr D was unhappy with this and brought his complaint to us.

One of our investigators has looked into Mr D's complaint and he thought that Baxendale should replace the piano with one of similar quality in line with the terms and conditions of the policy and the closest equivalent was the Yamaha DU1 Disklavier Enspire ST Upright Piano which would cost around £14000.

Baxendale disagreed with our investigators view, and so the case has come to me to review.

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.

In this case I have to consider whether Baxendale have decided the claim in line with the terms and conditions of the policy and made a fair and reasonable offer to settle the claim.

I am upholding Mr D's complaint and I will explain why.

The policy Mr D took out says that in the event of a total loss Baxendale will:

"Where the goods are a Total Loss, pay You a cash settlement to cover the cost of a replacement of similar quality or closest equivalent but no better than the damaged Goods.

The policy further says

“In the event that an equivalent replacement is not available for any reason such as but not limited to; the Goods are no longer manufactured, no longer supported, out of warranty guarantee, the specification of the Goods has been upgraded, or the goods are obsolete, We will pay you a cash settlement based on the Goods current market value (second hand value)”

In the initial report that was prepared, the expert advised that the Yamaha MXP 70N was no longer in manufacture and quoted the replacement cost as £4937 for a Yamaha b1 SC2. However, the valuer subsequently amended this view as the original replacement quoted was for an ordinary upright piano, not for one with a Disklavier function. He said: “you are absolutely right that your piano is a Disklavier, a fact I overlooked when finding a suitable replacement. The only suitable new piano that Yamaha now manufacture with the correct specification is the DU1 Disklavier Ensfire ST upright Piano. This is an upright piano with a disklavier function, you see from the link here it is for sale from Yamaha London for £14174 though this price does not include delivery.”

Mr D notified Baxendale of this error. He confirmed that whilst he was happy for the replacement not to be a Yamaha, it did need to have the Disklavier function (auto key movement/plays by itself, silent function and midi function, 88 keys, strung and digital).

The Disklavier function allows the piano to record and replay digitally, making it a completely different instrument to an ordinary piano – and as I understand it, is integral to Mr D’s job as a professional musician.

As the policy requires a cash settlement offered to cover the cost of a replacement of similar quality or closest equivalent, I am satisfied that it is necessary for the Disklavier function to be taken into account, and to comply with the terms of the policy, any offer of settlement should be for a replacement piano that includes a Disklavier function.

Baxendale seem to have accepted that this is the case, and following some internet searching they have advised that a second hand MXP 70N - giving the exact same functionality - can be obtained for £5500. They provided Mr D with an internet link to a second hand one that was available in Germany, and they offered settlement on that basis of £5540.99.

However, I don’t agree that this approach is fair and reasonable.

Baxendale have based their replacement valuation on one item that was available in another European country with no allowance made for transportation. It wasn’t known whether this item was still available, in working order, or whether the seller would be willing to transport the item. So, I don’t consider that basing the valuation on this one item is reasonable.

I have also undertaken some research into replacement second hand MXP 70N’s. I can find only two available, one in Belgium and one in Kenya. It therefore seems that the possibility of being able to replace the piano with the exact same model second hand, is not a realistic option. Given the nature of the item, and the logistics of testing the item and arranging transportation, I don’t consider it’s fair and reasonable to offer a settlement on the basis of a second hand replacement that isn’t easily available.

So I’ve taken into account that the experts’ opinion that as the MXP70N is no longer made, the equivalent similar item available on the UK market is the Yamaha DYUS1, and I consider that as this is the closest equivalent item, Baxendale should make a cash settlement to enable Mr D to purchase this item.

Mr D previously obtained a quote from Yamaha London to purchase this which was £13750 excluding delivery. However, due to the passage of time, I have asked Mr D to obtain an updated quote, and the cost is now £17549 including delivery.

Putting things right

I think that to put Mr D back in the position that he would have been in had the piano been delivered to his new address undamaged, Baxendale should pay a cash settlement of £17549 which would allow Mr D to purchase the closest equivalent replacement which is the Yamaha DYUS1 Disklavier Enspire ST Upright piano.

My final decision

My decision is that I uphold this complaint and direct Baxendale Insurance Company to put things right as above.

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

Joanne Ward
Ombudsman