

The complaint

A company, which I'll refer to as J, complains that West Bay Insurance Plc (West Bay) didn't handle the notification of a vehicle theft, under its commercial vehicle insurance policy, correctly.

What happened

J took out a commercial vehicle insurance policy. In January 2021 J's van was stolen while the keys were still in the ignition. J said it was aware that the theft wouldn't be covered by West Bay due to the circumstances in which the vehicle was stolen and so it contacted West Bay to report the theft, but it didn't intend to pursue a claim.

In March 2021, the stolen vehicle was recovered, and West Bay were notified. J then approached the dealership where the vehicle was purchased from, to see if they would buy it back. J said the dealership ran a HPI check which came back with a "written off – stolen" marker against the vehicle which prevented J from being able to sell the recovered vehicle.

West Bay said that J had initiated a claim but then withdrew it when the vehicle was recovered. In its final response letter West Bay said it had correctly recorded the claim and applied the necessary markers. West Bay agreed to close the claim and allow J's no claims discount (NCD).

J then attempted to insure another one of its vehicles however it was told that there was an open claim on the claims and underwriting exchange database (CUE) with the NCD disallowed. In light of this information, the insurer said that the price it had previously quoted was no longer available. J received a new quote which was considerably higher than the initial quote.

J was dissatisfied that the claim remained open on CUE even though West Bay had agreed to close it.

J complained that as a result of West Bay incorrectly recording the notification as a 'claim' and leaving it open on CUE, as well as leaving a marker on the Motor Insurers Anti-Fraud and Theft Register (MIAFTR) stating "written off – stolen" when the vehicle had been recovered, had a financial impact on J as it was unable to insure its other vehicles without being penalised for the open claim on CUE and it could not sell the recovered vehicle either. J also complained about the time and stress this caused its director in dealing with the matter.

West Bay upheld J's complaint and offered £100 compensation for the time J spent in contacting them to resolve the matter. They also later offered a further £150 compensation for leaving the claim as open with NCD disallowed even after the vehicle was recovered and it agreed to close the claim and allow the NCD.

J didn't think West Bay had done enough to put things right and therefore it referred its complaint to our service.

One of our investigators looked at what happened. She felt that West Bay hadn't treated J fairly. She concluded that when J contacted West Bay about the theft of the vehicle it was for notification purposes only and therefore West Bay shouldn't have recorded it as a claim on CUE. She was satisfied that the HPI marker had now been corrected but she thought that a significant amount of time was spent by J to resolve the incorrectly recorded notification of the claim and to remove the HPI marker once the vehicle was recovered.

When considering the impact of what had happened, she said that J hadn't gone ahead with the insurance quotes for the other vehicle and therefore it wasn't a cost it had incurred and while J complained about sending an incorrect response to its complaint this wasn't something she could consider because complaint handling isn't within our remit.

She suggested that to put things right, West Bay should update the way the claim had been recorded on the CUE database to reflect that it was notification only and increase its offer of compensation to £300. West Bay accepted the investigator's findings however, J didn't think the offer was sufficient. The complaint has therefore been passed to me to decide.

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, I'm going to uphold it. I'll explain why.

Did West Bay correctly record the claim

When considering whether or not West Bay acted correctly by recording the theft as a claim on CUE, I have listened to the call recording of the conversation which took place when J contacted West Bay to inform it of the theft.

I note that before the conversation took place, J left a message for West Bay informing them that it wanted to report a theft on an insured vehicle. Later, West Bay returned the call.

J told West Bay it wanted to report a theft and West Bay took some further details of what happened and explained the claims process. During the conversation, West Bay advised that the excess would be applicable if J chose to make a claim against its policy. Also, while going through the claims process, West Bay also confirmed that nothing would go ahead until J completed an online questionnaire.

West Bay told our investigator that they treated this as a claim because it would be left to J to make it clear that it didn't want to make a claim

I agree with our investigator that during the call, J didn't say it wanted to make a claim, but it also didn't say that it didn't. I have therefore carefully thought about what was actually said and the actions of both parties in determining their intention.

when J called West Bay it said it was calling to reporting the theft, it didn't say anything about making a claim. West Bay informed J that the excess will become applicable if a claim is made. From the language used by West Bay, I think it suggests that it left it open for J to decide whether or not it wanted to claim. Also, it told J that an online questionnaire is required if it wanted to make a claim, but J didn't complete the questionnaire. Furthermore, when J received an email from West Bay about the claim, it advised that it hadn't wanted to claim as it knew the theft wasn't covered. Taking everything into consideration, I'm persuaded that J's actions and comments indicate that its intention to inform West Bay of the theft was for notification purposes only and therefore West Bay didn't act correctly by

recording the theft as a claim.

It's not in dispute that the claim was recorded on CUE as open and the NCD disallowed. West Bay agreed to close the claim and allow the NCD however there was a delay in actioning it. West Bay offered to pay £150 compensation for the delays.

J told us it retrieved a quote from an insurer for another vehicle, but the quote increased due to the claim being left as open and NCD disallowed. While I understand from J that the initial quote increased considerably from £1,889.69 to £8,900, J didn't go ahead with that policy, so it hasn't incurred a cost. J told us that the policy it went ahead with cost £1,082.42.

The "written off – stolen" marker

J also complained that West Bay applied a "written off – stolen" marker and failed to remove it when the vehicle was recovered. As a result, J was unable to sell the recovered vehicle.

West Bay said it agreed to remove the marker in April 2021, one month after the vehicle was recovered, however J said the marker was still there in August 2021 which prevented it from selling the vehicle. It's difficult to know now what would have actually happened – by this I mean whether the dealer would have purchased the vehicle and how much they would have paid for it. I understand that J is still in possession of the vehicle, but the marker has now been removed so J could sell the vehicle if it still wants to. Having said that, I do agree with the investigator that it took West Bay longer than I would've expected to remove the marker which caused J inconvenience. I have considered below whether West Bay's offer of compensation in this respect is reasonable in the circumstances.

Complaint handling

J complained that West Bay's response to its complaint was inaccurate.

Complaint handling by a business isn't a regulated activity and as such, the issues raised that relate directly to how West Bay have responded to the complaint do not come under my powers to consider. I therefore won't comment on this part of J's complaint.

Putting things right

In order to put things right, West Bay should change the way the reported theft has been recorded on CUE to reflect that it was notification only.

I understand the "written off – stolen" marker has now been removed and therefore J is able to sell the vehicle if it wishes to do so. I do agree with the investigator that it took West Bay longer than it should have to amend the marker. I've considered below whether its offer of compensation is sufficient.

I agree with our investigator that I don't have enough evidence to determine the impact of the open claim on CUE and disallowed NCD on any other insurance policies taken out by J. J didn't go ahead with the policy where the price increased to over £8,000 and so as no cost was incurred, I haven't considered this any further. For the policy which J did take out, J is free to ask the new insurer to re-rate the policy after West Bay updates CUE.

I've also thought about whether the compensation which has already been offered by West Bay is sufficient and I don't think it is. I agree with our investigator that West Bay should increase its offer to £300 to compensate J for the time spent in dealing with the incorrect claim record and the removal of the HPI marker once the vehicle had been recovered.

J's director informed us that that situation has caused him a lot of stress and impacted his mental health. I am very sorry to hear that. But, as our investigator explained in her view, we can only consider the impact of West Bay's action on J, as the eligible complainant to our service, and not its director personally.

Having considered everything that's happened very carefully, I'm satisfied that £300 is a fair and reasonable amount to compensate J for the inconvenience caused.

My final decision

For the reasons explained above, my final decision is that I uphold J's complaint and I direct West Bay Insurance Plc to:

- Update CUE to reflect the report of theft was notification only and to inform J when this is done so it can have its current policy re-rated if it chooses to do so.
- Pay J £300 in total for the inconvenience caused by the way it handled the theft notification and the service it provided thereafter. For avoidance of doubt, the £300 includes any compensation already offered by West Bay Insurance Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask J to accept or reject my decision before 27 July 2023.

Ankita Patel
Ombudsman