

The complaint

Mr Y complains that West Bay Insurance Plc (West Bay) delayed his claim by several weeks causing him both financial suffering and general inconvenience.

What happened

I set out the background to this complaint and my initial findings in my provisional decision on 16 February 2023 (below). In my provisional decision I explained why I was minded to partially uphold Mr Y's complaint.

Mr Y's car was the subject of a vandalism attack, resulting in it being written off. The incident happened on 29 April 2022 and Mr Y reported this to West Bay telling them he wanted to make a claim under his motor insurance policy.

West Bay appointed an investigations company (E) to gather all the information they needed to deal with Mr Y's claim. E spoke to Mr Y in May and told him that West Bay may want to obtain the police report for the incident and would need his consent to do so, Mr Y was happy to provide this consent. E told him that West Bay would get in touch with him directly in the coming days to arrange for him to sign a document giving his consent.

When Mr Y still hadn't heard from West Bay by 12 July 2022, he contacted E to see what was going on. E told Mr Y that they had provided everything to West Bay on 23 May 2022. So, Mr Y contacted West Bay the same day to chase them up, West Bay told Mr Y they were waiting for the police report. Mr Y was confused by this as he hadn't yet been sent the consent form. Following his call with West Bay the form was sent to him by email and he signed it and returned it immediately.

As Mr Y hadn't heard anything from West Bay, he says, he tried to contact them throughout August but the phones lines were busy and had long wait times so he wasn't able to get through.

On 30 August Mr Y raised an online complaint with West Bay and was able to speak to them on the phone in early September 2022. West Bay told him they were still waiting for his signed consent form. Mr Y was frustrated by this as he had returned it the same day it was sent to him back in July.

West Bay made a decision to settle Mr Y's claim at this point without the benefit of the police report. But they offered him a value that was significantly lower than the trade guides for his car. Mr Y disputed the figure and West Bay increased the offer by £2,000, which Mr Y accepted.

But Mr Y was still unhappy with the way West Bay had dealt with his claim and so he brought his complaint to this service. He was unhappy that while his claim was delayed:

- *He couldn't afford to replace his car but had had to continue to pay his*

monthly insurance premiums.

- He wasn't offered a courtesy car*
- He had had to continue to pay his monthly finance payments toward his car.*
- He had had to rely on using a taxi service to get to work the two days a month that his employer requires him to go to the office costing him a total of £174 (this was for five days- two in September and three in October 2022).*

He was also unhappy that he had to pay £1,500 for his excess as he feels that West Bay didn't do their job properly, causing delays and undervaluing his car so they shouldn't have charged him the excess.

Although Mr Y's claim was settled in September, he said he would not be able to afford to get another car before the end of the year and wanted travel expenses for November and December's office days to be considered.

Mr Y said all of the above had caused him a great deal of stress and worry and so he wanted to be compensated for it.

While his complaint was with us Mr Y let the investigator know that West Bay had offered £300 to compensate him for how they had dealt with his claim. Mr Y said he wasn't cashing the cheque as he didn't accept the offer.

Our investigator partially upheld Mr Y's complaint, in summary she said:

- As Mr Y had claimed under the policy, he had benefitted from it and so it was fair for him to have had to pay the full premium due for the policy, therefore it was reasonable that he had to continue with his monthly payments.*
- An excess is an uninsured loss and is payable on any claim.*
- As his car was a total loss he wasn't entitled to a courtesy car, and this was in line with the policy terms and conditions.*
- West Bay should pay for any Taxi fares Mr Y incurred between June and September 2022, as this was the time when they had delayed asking for the police report.*
- The delays were unnecessary as West Bay were able to make a decision on the claim without the benefit of the police report and so could have done so earlier.*
- West Bay should pay Mr Y £37.10 for the taxi receipts he had already provided on top of the £300 compensation they had already offered.*

West Bay disagreed. They argued they were entitled to carry out a full investigation of the claim and so were entitled to ask for the police report which, even if they had requested on time, still may not have arrived with them by the time they eventually settled the claim. So, it was unfair that they would have to cover costs of taxis between June and September as that is 122 days and so there shouldn't be a blanket approach for taxi fares during this period. The matter has now been passed to me to decide.

What I've provisionally 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 realise that I've summarised this complaint in less detail than the parties and I've done so using my own words. I've concentrated on what I consider to be the key issues. The rules that govern this service allow me to do so. But this doesn't mean that I've not considered everything that both parties have given to me.

Having read and considered the whole file, I'm intending to partially uphold Mr Y's complaint. I'll explain why, but in doing so I'll keep my comments to what I think is relevant. If I don't comment on a specific point, it's not because I haven't considered it but because I don't think I need to comment on it in order to reach the right outcome.

Finance, premium and excess payment

As Mr Y had purchased his car with a finance agreement, he is contractually bound to make his payments each month. This is the contract he entered into and is between him and his finance company and is separate to his contract of insurance with West Bay. He has to make his payments regardless of if he is able to make use of the car or not. I completely understand Mr Y's frustration that he had to pay this for longer than he would have if West Bay had settled his claim earlier. But he would always have been liable for the payments under the finance agreement and so I don't believe this was detrimental to him financially. I say this because as a result of him making those extra monthly payments his settlement amount became lower meaning, he was entitled to keep a higher proportion of the claim value when it was settled.

Mr Y's policy like every other one I have seen on the market contains a condition that in the event of a claim the full premium for the policy becomes due, regardless of if the policy is to continue with a different car or if it is to be cancelled. This is because once a successful claim has been made under the policy the insured – in this case Mr Y – has had the full benefit of the policy and so it's fair that he pays the full price for it. So, I don't think it's unreasonable for West Bay to have continued to take Mr Y's monthly payments.

An excess is an uninsured loss, this means it isn't covered by Mr Y's insurance policy and he is responsible for paying it. It is an amount that was agreed at the outset of the contract between West Bay and Mr Y and is the amount he has to pay towards any claim he makes under the policy. I understand Mr Y feels that West Bay didn't handle his claim as they should and so he shouldn't have to pay it, but the two things aren't linked. Any compensation due to Mr Y because of poor claim handling will be dealt with separately from his excess. It follows I won't be asking West Bay to refund Mr Y's excess.

Courtesy car

Mr Y's policy states that a courtesy car will be provided following a valid claim if the car is repairable and is repaired by an approved repairer. As Mr Y's car was not repairable, he was not entitled to this benefit under his policy. So, I can't fairly say he should have been provided with a courtesy car here.

Car Valuation

Mr Y's policy says that it will settle a total loss claim for the market value. The policy defines market value as:

The cost of replacing the insured vehicle at the time of loss or damage compared with one of the same make, model, specification and condition.... The market value will be assessed by an automotive engineer in conjunction with the published trade guides at the time of loss.

My role is not to value Mr Y's car, but to make sure West Bay has settled his claim fairly and reasonably in line with his policy terms.

Our approach to assessing the fair market value takes into account what the motor trades guides say the market value is. We use four guides, Cap, Cazoo (formally known as Cazana) Glass' and Autotrader. The guides are based on extensive research of what was happening in the market at the time and are a good reflection of the true Market value of the vehicle. We normally say if the offer made is within the range of the values provided by the guides, then this is fair.

West Bay have provided evidence to show they used three trade guides when placing a value on Mr Y's car. I can see the checks they carried out returned the following values: CAP £15,095; Glass' £15,520 and Cazoo £16,569. But West Bay only offered Mr Y £14,100 in settlement for his car. I can't see any reason for them to have undervalued his car in this way.

This was distressing for Mr Y as this would have left him severely out of pocket, he challenged the offer and West Bay increased the offer to £16,100 – this was within the range of the guides they used.

For completeness, and in line with our approach, to make sure West Bay's later offer was a fair one I cross checked the guides West Bay used to make sure they were correct, and I also ran an additional valuation using Autotrader, this returned a value of £15,920. As this value is lower than the amount settled on, I'm satisfied West Bay eventually settled the claim for a fair amount. However, I do think in undervaluing his car initially and causing him to argue for a fair value they caused him unnecessary distress and inconvenience. Which I will take into account when thinking about the overall compensation West Bay should pay Mr Y.

Delays and taxi fares

West Bay were advised by E on 23 May 2022 that they may want to apply for the police report, they didn't act on this. Mr Y chased them in July 2022 and supplied his signed consent. West Bay didn't act on this either. It was only when Mr Y complained about the ongoing delays and spoke to them in September did West Bay look into matters and realise the report hadn't been requested.

West Bay have said they believed E was obtaining the police report and this is why nothing happened, but even if that's the case E is their agent and acting on their behalf and so they are responsible for E's actions.

In any event, West Bay decided to settle the claim without the benefit of having the report, which suggests this wasn't needed in order to make a decision on the claim. Based on this I think they were in a position to make a decision on the claim on 23 May 2022 and as such they delayed the settlement of the claim by not doing so. The

settlement amount was split between the finance company and Mr Y, with the finance agreement being settled first and the remainder paid to Mr Y. This means Mr Y was without the portion of the funds he was entitled to from 23 May 2022 until the claim was settled in September 2022.

Because of that I will be recommending that West Bay pay 8% simple interest on Mr Y's portion of the settlement from 23 May 2022 until the date the settlement was paid to him.

This meant Mr Y didn't have the means to replace his car during that time and so, on the two days a month that he had to attend the office for his work he had to take a taxi both there and back. Mr Y has told us that the cost of the taxis was approximately £37 per day. He has provided a receipt for one such journey in September. In the circumstances I think the reasonable thing for West Bay to do here is, upon supply of the relevant receipts, to pay Mr Y's taxi fares to his work on the two days a month he attended the office between 23 May 2022 and when the claim was settled. They should also add 8% interest to each of those payments from the time Mr Y paid them until they settle them.

Mr Y has asked that his taxi journeys in October and through to the end of 2022 also be taken into account as he wasn't in a position to replace his car during that time. While I understand Mr Y's rationale that the cost of cars has increased and he couldn't afford to replace his car, this isn't something West Bay is responsible for, their responsibility ended when the claim was settled and it's for Mr Y to decide after that point if replacing his car or continuing to take taxis is the most cost-effective way forward for him. So, I won't be asking West Bay to cover this for him.

Distress and inconvenience

When considering the amount that West Bay should pay here, I've thought about the whole experience for Mr Y. Including him having to chase them repeatedly and eventually having to make a complaint to get things moving, West Bay not even realising they hadn't requested the police report and giving him incorrect information. The overall delays. And West Bay unfairly undervaluing his car without any good reason, that I can see, causing him to worry if he would be able to afford to settle his finance and to replace his car, and the inconvenience of having to argue for a fair price, which he had been entitled to from the beginning.

Mr Y has told us how this impacted him, not being able to help his family by taking his mum shopping as he normally would and being restricted in his own activities due to a lack of transport. On top of the worry about if and when his claim was going to be settled and then worrying that he hadn't been given a fair amount for his car.

Given all of the above I'm recommending that West Bay pay Mr Y a total of £600 (including the £300 already offered) for the distress and inconvenience caused to him throughout the life of his claim.

Putting things right

In order to put things right here I require West Bay to:

- Pay 8% simple interest on Mr Y's portion of the settlement amount from 23 May 2022, until the date the claim was settled.*
- Subject to Mr Y providing receipts pay his taxis to and from work for two days*

per month from 23 May 2022 until the date the claim was settled. They should also add 8% simple interest to each payment from the date Mr Y paid for the taxis until they make payment.

- *Pay Mr Y a total of £600 in compensation – they are entitled to deduct any amount already paid to him for compensation from this.*

†Her Majesty's Revenue & Customs may require that West Bay deduct tax from the interest paid to Mr Y. If it does and Mr Y requests it, West Bay must provide him with a certificate showing how much tax it has taken off, so he may reclaim it if appropriate.

I invited both parties to let me have anything in response they thought was relevant.

West Bay didn't respond.

My Y responded saying he was happy with the assessment and had nothing further to add.

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.

As neither party has provided any new information or further evidence, my outcome and the reasons for it haven't changed from my provisional findings.

Putting things right

In order to put things right here I require West Bay to:

- Pay 8% simple interest on My Y's portion of the settlement amount from 23 May 2022, until the date the claim was settled.
- Subject to Mr Y providing receipts pay his taxis to and from work for two days per month from 23 May 2022 until the date the claim was settled. They should also add 8% simple interest to each payment from the date Mr Y paid for the taxis until they make payment.
- Pay Mr Y a total of £600 in compensation – they are entitled to deduct any amount already paid to him for compensation from this.

†Her Majesty's Revenue & Customs may require that West Bay deduct tax from the interest paid to Mr Y. If it does and Mr Y requests it, West Bay must provide him with a certificate showing how much tax it has taken off, so he may reclaim it if appropriate.

My final decision

For the reasons set out above, I uphold this complaint and I require West Bay Insurance Plc to carry out the actions as set out under the 'Putting things right' section of this decision

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Y to accept or reject my decision before 4 April 2023.

Amber Mortimer
Ombudsman