

The complaint

Mr D has complained about the way West Bay Insurance Plc have handled his claim under his car insurance policy.

What happened

Mr D made a claim under his policy for his car after it was damaged by a third party vehicle whilst it was parked. The car is a fairly unusual make and model, specifically set up for track racing; although it can be legally driven on public highways. It was insured for an agreed value under the policy of £62,000.

Following an initial delay due to an administrative error, West Bay arranged for the car to be inspected by a motor engineer. The engineer estimated the cost of repairs to be £3,100.50. He estimated the market value at the time to be £24,800. West Bay established none of their approved repairers could carry out the repairs due to the type of car. Irrespective of this, they reduced the labour rate used by the engineer to their rate for approved repairers, and made a cash-in-lieu of repairs offer to Mr D of £1771.75.

Mr D said he'd contacted various garages and they all had very long lead times for carrying out the repairs. So he didn't think he would be able to find anyone to repair his car. And he didn't think what West Bay had offered was anywhere near enough to get it repaired. Mr D complained to West Bay. They accepted an administrative error had caused an unnecessary delay and offered Mr D £150 compensation for this. But they would not increase their offer for the repairs.

Mr D complained to us and one of our investigators considered his complaint. He queried with West Bay why they'd reduced the labour rate on the estimate by their engineer to their rate for approved repairers, when they had decided not to arrange for one of them to repair Mr D's car. They came back to say they shouldn't have done this and offered to pay the full amount suggested by their engineer of £3,100.50.

Mr D provided a report following an inspection by an independent motor engineer (IME). In this the engineer has said he estimates it would cost £18,950 to repair Mr D's car. But he's said further damage could be found, which could cause the cost to rise above this amount.

Our investigator then provided his view on Mr D's complaint. He said he didn't think that it was possible to repair Mr D's car in a reasonable time due to the issues with parts and repairers not being willing to undertake the repairs. He said that – in view of this – West Bay should treat the car as a total loss and pay the value as per the policy terms. He also said West Bay should pay Mr D a further £150 in compensation for distress and inconvenience.

West Bay didn't agree with the investigator's view. They thought his suggestion they should pay the agreed value was totally disproportionate when the estimated cost of repairing Mr D's car is £3,100.50.

Mr D agreed with the investigator's view. But he pointed out that because his car had been

sat outside his home for well over a year in its damaged state and could not be driven, its condition had deteriorated and mould had started to form inside it. He said he thinks that this will mean a lot more work will be required to repair it and make it roadworthy.

Mr D also said he'd incurred additional costs as a result of West Bay's poor handling of his claim. These are the costs of having his car transported to a garage and back so the engineer he appointed could inspect it, transport of his car to his new address, as he's recently moved house, a parking space to keep the car in and the cost of car insurance for five months while he was not able to use his car. I also note Mr D paid the engineer he appointed to inspect his car and provide a report.

I issued a provisional decision on 4 May 2023 and I set out what I'd provisionally decided as follows:

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I consider West Bay's handling of Mr D's claim to have been very poor indeed. They took far too long to arrange for his car to be inspected and then, having got an engineer's report with an estimate on, they unreasonably reduced the labour rate to their rate for authorised repairers, when they would have known it would be almost impossible for Mr D to be able to get a repairer to carry out the repairs at this rate. This means that even if their engineer's estimate for the repairs was correct and Mr D could have found a garage willing to carry out the repairs, there was no way Mr D could have got his car repaired with what West Bay were willing to pay him.

But I don't think the estimate provided by Markerstudy's engineer was correct. I say this because there is no description at all of the work required to repair the vehicle and they've only allowed £450 for the cost of parts, which seems far too low based on the evidence Mr D and his IME have provided. They've both pointed out some of the parts would need to be imported and that they would cost considerably more than £450. West Bay's engineer's report also suggests if additional damage is found on dismantling the repair cost may increase, which seems likely to me. This having been said, West Bay have said to us that they'd cover the cost of repairing any additional damage discovered on dismantling. The engineer has also not allowed anything for paint and materials, which I find surprising. So, in view of this and the other things I've already mentioned, I think it is hard to say his estimate represents a realistic repair cost and I don't consider it can carry much weight.

I find Mr D's IME's report much more comprehensive, and so much more persuasive. I say this because he sets out very clearly the actual work required, provides a detailed breakdown of the repair costs and allows amounts for the additional items I'd expect to see, such as paint and materials. He's also acknowledged the cost of repairs could rise when the vehicle is stripped. He's also noted that the cost of parts could be impacted by the fact some of them may need to be imported. This engineer's estimate, based on the damage he could identify on inspection, is £18,950 and I am satisfied this is most likely to be accurate.

Having said all of this, I do not think it is now realistic to expect Mr D to take a cash-in-lieu of repairs settlement of any amount for the repairs to his car. This is because I'm satisfied from the evidence he's provided about contacting garages who were not able to do the repairs for a considerable period of time and the fact the third party insurer was also unable to find a garage to do them, that repairing his car would now mean him having to wait a further considerable period of time to get his car back on the road. And I am not even sure it would have ever been possible to repair his car in a reasonable timescale.

Mr D has already waited around a year and a half. So, even if it would have been

appropriate originally for West Bay to settle the claim on a cash-in-lieu basis, as the terms of the policy do allow this, I do not consider it would be a fair and reasonable outcome to Mr D's complaint to allow them to do so now. Also, I can see from the photographs Mr D has recently provided and what he has said, that his car has deteriorated considerably since it was damaged. It's obvious if a car is simply left standing unused and open to the elements, mould can form and parts cease up and rust.

In view of this, I agree with our investigator that as part of the fair and reasonable outcome to Mr D's complaint West Bay should treat his car as a total loss and pay the amount due under the policy in this situation. According to the policy terms and the endorsements that apply to Mr D's policy, this will mean them paying the agreed value of £62,000, less the policy excess of £250. I think this is fair in the circumstances and it's what West Bay agreed to insure the car for. And they had the opportunity to make sure the premium reflected the risk of them paying this amount in the event of a total loss.

I appreciate West Bay think a total loss settlement, which will mean them paying nearly £62,000 is disproportionate when it would only cost around £3,000 to repair Mr D's car. But, I have little sympathy for this argument, as they will only be paying this as a result of their poor handling and unreasonable approach from the outset. Also, I do not consider around £3,000 is anywhere near what it would actually cost to repair Mr D's car. Also, settling on this basis will mean West Bay taking ownership of the damaged car. So, if they're confident it can be repaired in a reasonable time and at a reasonable price, they can arrange this and then sell it in its repaired state.

I do not intend to make West Bay pay interest on this amount. This is because technically Mr D's car is not a write-off (total loss) and my view that West Bay should pay the agreed value is due to the specific and quite unusual circumstances of this particular complaint.

I do however consider West Bay should cover the cost of Mr D's IME's report. This is because this has influenced my view on his complaint and helped me decide the repair estimate provided by their engineer was inappropriate. So, it is fair and reasonable for West Bay to reimburse what Mr D paid for this, which was £198. I also consider that West Bay should cover the cost to Mr D of having the car transported to a garage for the engineer to inspect it, subject to him providing proof that he paid this amount.

I have also noted that Mr D moved house recently and no longer had off road parking for his car. Understandably, it's not taxed, so it may be that Mr D has had to pay to have it moved to somewhere he is able to store it. So, I think West Bay should cover any cost Mr D has incurred for these things, subject to him providing proof he has paid for them.

I do not think West Bay needs to pay interest on what Mr D paid for the engineer's report or the other additional costs I've mentioned, as he has not been without the funds for very long and the amount involved would not be significant in view of what I am proposing West Bay pay to settle Mr D's claim.

I don't think it is appropriate for West Bay to return any of Mr D's premium, as it is now having to pay the full agreed value under the policy.

I also consider that West Bay's poor handling of Mr D's claim and the length of time it has gone on has caused him a significant amount of distress and inconvenience. West Bay have already offered or paid him £150 in compensation for distress and inconvenience, but I do not consider this is enough. I've also considered that Mr D was without the use of his car for some time. And, although it seems he had a second car or, at times, a hire car to get him around, he still lost the pleasure of driving his car and using it for track days. So, bearing in mind the length of time the matter has lasted on and the stress this would have caused to Mr

D, I think West Bay should pay a further £500 in compensation for distress and inconvenience. So, £650 in total.

I gave both parties until 18 May 2023 to provide further comments and evidence in response to my provisional decision.

West Bay have responded to say they accept the recommendations in my provisional decision.

Mr D has responded to say there have been no storage charges for his car, as it has been parked on a neighbour's property since he moved. But he's explained he does not have a receipt for the £200 he paid to have the car moved to near his new address, as he just went with the cheapest quote and paid cash. But he has provided a photograph of the car on the transporter and a map of the route, which is time stamped. He's also confirmed there were no additional charges in obtaining the engineer's report. Finally, Mr D has said his excess shouldn't need to be deducted as the other party involved in the accident has accepted liability.

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 am pleased West Bay has agreed with the recommendations I made in my provisional decision. In view of this, I see no reason to change my view on the fair and reasonable outcome to Mr D's complaint as set out in it.

I think West Bay should reimburse what Mr D paid to have his vehicle moved to near his new address. This is because I'm satisfied he paid this and he only had to do so because of the delay caused by West Bay's unreasonable approach to his claim. I also think West Bay is entitled to deduct the policy excess if they wish to do so. This is because this is something Mr D is responsible for in the first instance, which he or West Bay on his behalf will need to claim back from the other party's insurer.

Putting things right

For the reasons set out above and in my provisional decision, I've decided to uphold Mr D's complaint about West Bay Insurance Plc and require them to do the following:

- Pay Mr D £61,750 in settlement of his claim, with them taking ownership of his car. As I understand it, West Bay have not paid anything to Mr D so far. But if they have paid Mr D anything in cash for his claim, they can deduct it.
- Pay Mr D £198 to cover the cost of the engineer's report he obtained.
- Reimburse the £200 Mr D has paid for transporting his car to a new place of storage near his new address.

Pay Mr D a total of £650 in compensation for distress and inconvenience. If West Bay have already paid the £150 they offered in their final response letter, they can deduct this.

My final decision

My final decision is that I uphold Mr D's complaint about West Bay Insurance Plc and order

them to do what I've set out above in the 'Putting things right' section of this decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 14 June 2023.

Robert Short
Ombudsman