

The complaint

Ms M complains about how The Baxendale Insurance Company DAC has handled her claim under her Transit and Storage Insurance policy.

What happened

In late 2021 Ms M arranged for her goods to be stored and then transported as she'd moved abroad. She said she paid for additional protection for some of her goods, and for an unpacking service. But when her goods arrived in June 2022 the additional protective packaging hadn't been used, and several items were damaged, lost or completely destroyed. She said some of the packaging was also water damaged, and she was left to unpack the goods herself. Ms M said she was told she'd to make her insurance claim within seven days, which was difficult given the quantity of goods she needed to unpack. Ms M's insurance claim for the damaged and lost goods totalled £13,212.50.

Ms M said she was told by the removal company that all the goods were covered except for her racing medals. But this hasn't been the case and several months on she is still trying to get a resolution to her insurance claim. Ms M also said she hadn't been sent the policy documents at inception of the policy. She complained to Baxendale.

Baxendale said they'd sent Ms M the policy documents on several occasions, and she'd agreed to the policy terms and conditions. They said they'd considered Ms M's claim and had made interim payments. They'd also asked her for additional information about some of the items claimed for. Baxendale said while Ms M had sent the discharge form for the first interim payment of £4,670, she hadn't sent the form for the release of the other payment.

And she hadn't sent the information they'd asked for about the outstanding damaged items. Ms M wasn't happy with Baxendale's response and referred her complaint to us.

Our investigator said the insurance claim hadn't yet been fully settled and so could only consider the settlement to date. She said the claim had been settled in accordance with the policy terms and conditions, and for the remaining items Baxendale had asked Ms M to provide further information which she considered to be fair and reasonable. But our investigator said there had been unnecessary delay and conflicting information which had caused distress and inconvenience to Ms M at a difficult time. She asked Baxendale to pay Ms M £600 to compensate her for this.

Ms M didn't agree she asked for her complaint to be referred to an ombudsman to decide.

A provisional decision was issued in June 2023 that said:

it's clear that Ms M isn't happy about the way in which the removal company and also Baxendale as insurers handled her claim. But as our investigator explained it's only the insurance aspect of her complaint that can be brought to us to consider. I can understand that in itself is a source of frustration for Ms M. But Ms M's concerns about the removal company's negligence or claims in relation to uninsured losses wouldn't be a matter this service could consider as it's outside of our jurisdiction.

I can understand Ms M's frustration in having to go through a lengthy and upsetting series of events because of the damage and loss. Especially as she has moved to a different country and is suffering with health issues. The damage and loss to household and personal possessions, and items of sentimental value will have been distressing. But it's unfortunately an inevitable part of an involved insurance claim of this nature, that discussions, justification and evidence for claims need to be provided for individual items before an insurance company can indemnify policy holders for evidenced loss. I understand that such a process can take time and cause additional frustration for policy holders.

Whilst the claim has been ongoing for some time and there are a number of issues and circumstances to consider. I think the key issues for my decision are firstly whether Baxendale applied the terms and conditions of Ms M's Transit and Storage Insurance policy in a fair and reasonable manner. And secondly whether Baxendale generally acted fairly and reasonably in the handling of her claim.

Ms M has said she wasn't sent the policy documentation, but Baxendale has shown the documents were made available through a hyperlink sent to Ms M in an email in October 2021 and again in early November 2021. In signing the acceptance form Ms M would have confirmed she'd read the insurance guide and understood the terms and conditions of the policy. I can see Ms M signed the acceptance form in November 2021. So, I'm satisfied Ms M had the policy terms and conditions.

Policy terms

The policy would have provided cover from the time the household goods came into the care and control of the removal company until they were redelivered to the relevant destination address. This is subject to certain limits, conditions and exclusions. When her goods arrived Ms M said the containers showed signs of water damage. She said she'd paid an additional sum for wooden crates to be used for some of her items but these items had been shipped in cardboard containers. Also glassware and other delicate items hadn't been sufficiently protected in transit and had been completely destroyed. Ms M said she was given an unrealistic period to make her claim given the number of containers, 93 boxes and six suitcases and the extent of damage which was involved. On contacting the removal company, she was told she needed to make her claim within seven days. She said she'd asked for an extension as she felt this was insufficient time for her to go through everything and to make a full claim, but this was rejected.

The relevant policy terms here are:

"Claims notification

Claims must be made in writing (including e-mail) to the removal company in first instance within 7 days after delivery by the removal company or their agents"

And that

"An extension to the time limit for reporting claims maybe agreed in writing prior to the commencement of the services."

As outlined above the policy terms do say that any claim has to be made within seven days, and any extension asked for before the commencement of the services. So, I can't say Baxendale acted unfairly in applying these terms. And Ms M did make her claim within the seven days. I think this would have been difficult given the volume of items to be unpacked

and considered. But an extension could have been arranged, given the value and number of items being transported before the commencement of the removal.

Settlement of claim

In December 2021 Ms M provided an itemised breakdown of the goods to be transported, including the amount and estimated replacement value. And I can see Ms M in her insurance claim listed over 100 items she said were destroyed, damaged or missing. And referenced them to the December itemised list with the estimated value. Ms M's insurance claim was valued at £13212.50.

The policy says:

"WHAT IS INSURED? Household goods, furniture, personal effects, motor vehicles/boats/caravans, antiques or objects of art, and items listed on the proposal form and packed by the removal company excluding items specifically listed under the terms of the policy and in this document which Baxendale will not insure. Cost and expenses incurred as a result of shipping line declaring general average."

And also

"WHAT IS NOT INSURED? Jewellery, watches, smart watches, sunglasses, precious stones, Money, coins, bullion, deeds, bonds, securities or stamp or medal collections or similar, furs, perfumes, tobacco, cigars, cigarettes, beer wine or spirits, foodstuffs, medicines, drugs, perishable or corrosive goods, paints, pressurised containers, explosives, firearms, flammables', flat pack furniture, pornography, any illegally held item(s) livestock, animals, plants, human or animal remains or ashes, mobile phones or tablets, memory sticks SD cards, information contained in any document, loss of use, loss of production, loss of amenity, loss of enjoyment or any other indirect or consequential loss. Please see policy wording for full list of exclusions. Goods that are not packed by the removal company (Owner packed goods). Loss or damage caused by excluded risks. Goods which are not subject to the removal services."

Having considered Ms M's claim there are a number of items listed that wouldn't be covered under the policy for example coins, mobile phones or tablets, memory sticks and SD cards. I know Ms M said she was only told that her racing medals wouldn't be covered, but the policy terms and conditions allow for the approach taken by Baxendale. So, I can't say that it was unfair or unreasonable for Baxendale to have applied their policy terms in excluding certain items.

Baxendale made an interim payment for 88 items listed in Ms M's claim, and Ms M returned the discharge form, so I won't comment further on these items as they've been accepted and agreed. In total £4,670.

Further Interim payment

In the ongoing discussions I can see that Baxendale agreed a further £463 that was made up of the following items:

Divan	200
Souvenirs	88
Remote	10
Coasters	18
Storage Jars	12

Casserole dishes	90
Treasure box	45

Baxendale accepted 22 souvenirs at a value of £4 each, in total £88. And they asked Ms M to provide details about a mattress and framed certificates. Ms M provided details of the cost of the divan, £282.30 and the cost of cleaning the mattress £362.30, which Baxendale also accepted. Ms M showed the cost to replace the framed certificates would be £785.

Baxendale said the limit for this item under the policy was £600. I can see from Ms M's itemised list of items and their values show that she'd insured the framed certificates for £600. The relevant policy terms are:

"Sum insured

Baxendale's liability to you will not exceed the total amount you have insured your goods for."

"Underinsurance/Average

Your goods must be insured for their full replacement value at destination. If the sum insured is less than the full replacement cost at destination your claim maybe reduced to reflect the amount by which you are underinsured."

So I don't think Baxendale acted unfairly or unreasonably in applying the sum insured limit for the framed certificates. From my calculations this now meant Baxendale had agreed to:

Mattress cleaning	362.5
Divan	282.3
Remote	10
Coasters	18
Storage Jars	12
Casserole dishes	90
Treasure box	45
Framed certificates	600
Souvenirs	88

Which I calculate to be £1,507.80, Baxendale had offered Ms M in settlement a payment of £1429, which I don't think covers all the items that had been agreed to. Ms M disputed the amount as she calculated the items to a value of £1,756.80 so she didn't return the discharge form.

Ms M said she provided details for the cost of replacing the framed certificates - £785, missing cables £50 which she said had been previously agreed, souvenirs £92 and a mop for £10. As explained above the sum insured for the framed certificates was £600.

Baxendale has asked for information about the missing cables in connection with another claimed for item, and I can see the mop had already been included in the agreed interim payment of £4,670. Ms M said Baxendale had agreed an item, she'd valued at £500 should be included in with the souvenirs so an additional £4 was owed, but I can see this item was considered to be a coin and therefore excluded from the claim under the policy terms.

After further discussions Ms M accepted £600 for the framed certificate but still said the payment should include the missing cables £50, the mop £10 and the souvenirs £92, making

a total of £1571.80. But as I've detailed, I've calculated the items agreed amounted to £1,507.80. As the interim payment has yet to be issued, I would ask Baxendale to review the items they've agreed to settle in line with my findings.

This does leave a number of items still outstanding. Baxendale say they've adequately explained the basis of their offers, especially as to the items which remain outstanding. They'd given sufficient detail about the information that's required for the remaining outstanding items to be considered. And I can see they've detailed the items, what information they need from Ms M and have highlighted to her the policy terms that show their reasoning for needing this information. It's for Ms M and Baxendale to reach an agreed settlement for these remaining items, after which if Ms M is still dissatisfied, she can raise a further complaint.

Service issues

Ms M said the process has been distressing and time consuming and she felt under pressure to accept payments offered. I've noted the volume of e-mail communication between the parties and note the significant number of items being claimed for and discussed. I can also see that Ms M challenged Baxendale about the offered interim payment of £1,429 being incorrect, but I can't see that they considered her concerns or reassured her by checking their offer. I think this caused Ms M further distress and inconvenience and caused her to lose faith in Baxendale's assessment of her claim. Which I think is evident in the email correspondence after the interim payment was offered. I don't think the £1,429 offered was correct as I don't consider the amount reflected the value of the settlement agreed for these items. And by Baxendale failing to consider Ms M's concerns over the accuracy of the settlement offer this has caused unnecessary further distress.

So, I do think Baxendale could have provided a better service and support in what was an already distressing situation. I think the lack of consideration given to Ms M's concerns about how her claim was being assessed has caused her additional distress and inconvenience at a time when she not only had moved to another country but she was also suffering from health issues. Our investigator said Baxendale should pay Ms M £600 to reflect this service failure and the additional stress and inconvenience caused. But I think £750 would be more reflective of the impact this has had on Ms M.

Responses to my provisional decision

Baxendale hasn't commented or asked for any further representations to be considered.

Ms M has said in summary:

- only one interim payment has been received;
- the policy terms in particular Clause 11 which she says state that Baxendale should pay for inspection of her damaged items should be adhered to;
- her complaint is about the entire claim which has yet to be fully settled;
- the actions of all the parties involved should be considered under her complaint as they are linked businesses;
- the hyperlinks referred to in the October and November 2021 emails didn't link to the insurer's terms and conditions but only to the removers website;
- that it should have only been a requirement to confirm that there was a claim for damage and loss within 7 days with her being able to send the detailed paperwork later;
- Baxendale's terms and conditions clearly state that they appoint the remover as the claims handler and that the remover processes and settles the claims. And as the

removers said that it was only her racing medals that weren't covered this should be honoured;

- Baxendale had agreed there were 23 souvenirs therefore £4 x 23 = £92 and not £88,
- Baxendale made her get a quote for her frames despite them being insured for £600 even after she'd repeatedly stated that a quote wasn't needed;
- the claims handler agreed to pay £50 for the cables;
- the mop wasn't paid for as there were two items, one broom and one mop each £10;
- she'd never agreed that an item valued at £500 should be treated as a souvenir valued at £4

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 considering all of the evidence, and Ms M's comments, if I haven't commented on any specific point, I don't mean any disrespect only that I don't believe it's affected what I think is the right outcome.

Policy terms and conditions

I have considered Ms M's comment about the hyperlinks in the emails sent to her in October 2021 and November 2021 which do take her to the remover's website. But as I referred to in my provisional decision Ms M doesn't dispute signing the acceptance form in early November 2021. There is a link to the insurer's terms and conditions in this document:

"When you sign the Acceptance Form and Insurance Form, you are confirming that you: – have read the Insurance Guide which you can view here and understood the terms and conditions of the insurance policy/policies you are buying"

And Ms M in signing the acceptance form confirmed she'd read the insurance guide and understood the terms and conditions of the policy. So, I remain satisfied that Ms M had the policy terms and conditions.

The policy states:

"Claims are dealt with by our appointed claims handlers. In some cases this might be a dedicated claims handling agents or in some cases the remover. In either case they have our full authority to deal with claims on our behalf....."

While we can consider the actions of other parties when they act as agents for Baxendale this is only with the insurance aspect of the complaint, which can in itself be a source of frustration. As I've previously stated concerns about the removal company's negligence or claims in relation to uninsured losses wouldn't be a matter this service could consider as it's outside of our jurisdiction. It's only the insurance aspect that can be directed through this service.

Baxendale's policy says:

"The remover acts as agents for us under the terms of an agency agreement. Under the terms of the agency agreement the remover is authorised by us to:

- *Offer our insurance products to its customers'*
- *Arrange insurance for the benefit of the customer;*
- *Collect premiums on our behalf;*

- Assist claims handlers with the processing/settlement of claims;
- Settle claims.”

The policy also defines:

“Claims Handlers “means claims handlers appointed by Us to process Claims on our behalf made under the Policy”

And under section “3 Cover”

“Subject to You paying the Premium (s) invoiced by the Remover, We agree to insure the Goods under the Terms of this Policy...”

So I take from this that the claims handler in settling the claim would still need to consider the claim under the terms of the policy. I know Ms M isn't happy that the claims handler said it was only her racing medals that weren't covered, but as outlined in my provisional decision the policy is clear about what is and isn't insured. And some of the items Ms M has claimed for aren't covered under the terms of the policy.

Clause 11

Ms M's understanding of this clause is that Baxendale have a responsibility to pay and hire experts to inspect the damaged items she is claiming for. I've considered the wording of the clause:

“You maybe asked to provide information that is reasonably required to substantiate Your Claim. If requested, damaged Goods must be made available for inspection either by the Claims Handlers or a third party appointed by the Claims Handlers to assist in the Claim such as a restorer, loss adjuster or expert.

You will only be asked for information relevant to Your Claim such as, but not limited to;

- Evidence in whatever form to support the amounts claimed;
- Receipts;
- Reports detailing damage;
- Third party correspondence;
- Photographs;
- Video footage;
- Proof of ownership;
- Operating manuals;
- Valuations
- Crime reference numbers;
- Details of any other policy of insurance that covers the Goods

You agree to provide such information if it is requested. Failure to co-operate with reasonable requests for information may delay the processing of Your Claim and in some cases may result in Your Claim being declined.....”

I consider the wording is clear and allows Baxendale to ask Ms M to provide information needed for them to substantiate her claim. And for her to make available any items if requested by Baxendale for inspection. In my provisional decision I said:

“This does leave a number of items still outstanding. Baxendale say they've adequately explained the basis of their offers, especially as to the items which remain outstanding. They'd given sufficient detail about the information that's required for the remaining outstanding items to be considered. And I can see they've detailed the items, what

information they need from Ms M and have highlighted to her the policy terms that show their reasoning for needing this information. It's for Ms M and Baxendale to reach an agreed settlement for these remaining items, after which if Ms M is still dissatisfied, she can raise a further complaint."

And

"Baxendale has asked for information about the missing cables in connection with another claimed for item"

So I don't think Baxendale has acted unfairly or unreasonably is asking Ms M to provide information to substantiate her claim. And I don't agree that the clause means Baxendale must inspect Ms M's damaged goods, only that she should have the items available for inspection if requested to do so by them.

Interim payments

My provisional decision states that Baxendale has made an interim payment which has been accepted by Ms M (£4,760). And that they have offered a further payment which Ms M hasn't accepted as she is disputing the amount offered. I'm satisfied that the proposed interim payment of £1,429 offered by Baxendale doesn't cover all the items they have agreed to settle. In my provisional decision I'd calculated this should be £1,507.80.

On review of Ms M's listed items, I can see that two mops were listed at P15 and P16 although at times these were itemised as a mop and a broom. P15 was agreed in the interim payment of £4,760. But I can see that in the further settlement offer £10 was agreed for P16. Taking this into account this would increase the agreed items to £1,517.80.

Ms M insurance claim included a "Diana" coin she'd valued at £500. I can see that Ms M later agreed in emails that this should be considered as a souvenir. And as Baxendale had agreed to pay £4 for each souvenir this should be included making a total number of souvenirs of 23 not 22. But as made clear in the terms and conditions coins aren't covered under the insurance policy. I know Ms M disputes this as she says the item isn't a coin of value, but the policy doesn't differentiate the nature of the coin only that coins aren't covered under the policy. So, I don't think the coin can be considered as a souvenir, which means the total number of souvenirs remains 22 with a settlement payment of £88 as offered by Baxendale.

Claim notification

I can see from the emails sent by Ms M that she told the claims handler about the extent of the damage. But in response I can see that the claims handler tried to assist Ms M with her claim, by the reporting of the damage within the seven days in line with the policy terms.

"You need to report the damage to me in writing within 7 days following the delivery – and then you should complete and return the claims form."

I can also see that it was suggested Ms M take photo's of the damage goods, while this could be arduous for each item, the suggestion made by the claims handler was for Ms M to provide a few photo's to give an overall view of the damage caused. I consider this was fair and reasonable and was the claims handler trying to assist Ms M with her claim. I accept the difficulties Ms M experienced, but she was able to provide the required details in line with the policy terms.

So, having considered all of the additional representations made, apart from the additional £10 item my findings within the provisional decision remain unchanged.

I appreciate there will be aspects of my decision that will disappoint both Ms M and Baxendale. But my role is to reach a resolution that's fair and reasonable for all parties. And I'm currently satisfied what I've set out above reaches a fair resolution to this longstanding dispute.

My final decision

I uphold Ms M's complaint. And ask The Baxendale Insurance Company DAC to:

- settle the agreed items as detailed above with an interim payment of £1,517.80, not as offered £1,429;
- continue to work with Ms M in reaching an agreed settlement for the remaining outstanding items of her claim in line with the policy terms and conditions; and
- pay Ms M £750 for the distress and inconvenience that has been caused to her.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 30 August 2023.

Anne Scarr
Ombudsman