

The complaint

Mr W has complained that West Bay Insurance Plc turned down his claim for damage to his van under his van insurance policy and that it provided a poor level of service prior to this.

I've referred mainly to West Bay in this decision for ease, although I realise Mr W dealt with West Bay's claim handling agent and they issued the final response on his complaint on behalf of West Bay.

What happened

Mr W's van broke down in mid-November 2021 and he had to call out his roadside assistance provider. Their operative overrode the fault and told him to take it to a garage to have it checked and any necessary repairs carried out. Mr W took it to a garage who I'll refer to as A. A investigated and said that something had contaminated the AdBlue tank. And they said flushing out the tank and system could solve the problem or repairs might be needed.

Mr W claimed on his policy on 2 February 2022. West Bay allocated it to their repair network agent to organise the repairs to Mr W's van. It seems they tried to get two different repairers to collect the van and provide an estimate for repairing it. However, these were body shops and it seems they were either unwilling or unable to get involved. And then the matter seems to have been complicated by the fact A wouldn't release Mr W's van. In the end West Bay declined Mr W's claim on the basis any damage to his van wasn't covered by his policy.

Mr W complained to West Bay. When doing so he also mentioned he was having a problem with A, as they were insisting he had to pay them £294 for investigating the problem with his van and that they were storing it in a place where it was open to the elements.

West Bay issued a final response on Mr W's complaint in May 2022. They said they weren't responsible for A's actions. They did however accept they'd relied on the wrong policy wording to turn down Mr W's claim. They also accepted that their communication wasn't as good as it should have been. They offered Mr W £150 for the poor service provided and said they'd reconsider his claim if he could provide evidence to show how the AdBlue tank in his van became contaminated.

Mr W wasn't happy with West Bay's final response and asked us to consider his complaint. When doing so he mentioned he'd been without his van for some time and had been unable to work normally as a painter and decorator. And he said that he'd had to buy 'a run around' vehicle to use instead, which he'd had to pay out for and that he'd also had to pay to tax and insure it.

One of our investigators considered Mr W's complaint. She said West Bay's offer to reconsider Mr W's claim if he provided evidence of how his tank had been contaminated was reasonable. However, she said West Bay should pay an extra £150 in compensation for the distress and inconvenience caused by the poor handling of Mr W's claim. West Bay agreed to pay the extra compensation. But Mr W wasn't happy with our investigator's view. He said he wanted her to consider the loss of earnings resulting from West Bay's delay in dealing with his claim.

Our investigator suggested to Mr W what he could provide for us to consider his claim for loss of earnings, but it seems he was unable to obtain it. As he still wasn't happy, the investigator put the case forward for an ombudsman's decision.

I established that Mr W had the AdBlue system on his van flushed out by A at a cost of £565.98. And that this solved the problem initially and he was able to drive his van, but the same fault code then re-appeared after five days. He's said that he sold the van at the beginning of June 2022. He didn't have to pay any storage costs or the £294 A had asked for.

I've issued two provisional decisions on this complaint. In the first I said West Bay should settle Mr W's claim for the damage to his van caused by the contamination of the AdBlue tank and system. And that in addition to this they should pay him for the loss of use of his van for a period of 31 days from the beginning of January 2022, plus the additional amount for distress and inconvenience suggested by the investigator. West Bay provided further comments in response to this decision. They highlighted the fact Mr W didn't report his claim to them until 2 February 2022. In view of this they didn't think my award of the loss of use of his van was appropriate. They also disagreed with my view that his van was damaged by an insured event. In my second provisional decision I maintained my view that Mr W's van was damaged by an insured event and that West Bay should pay his claim for the damage to the AdBlue tank/system. However, I said I no longer thought Mr W should get anything for the loss of use of his van, but that he should get a further £250 for the inconvenience of being without his own van for a period due to West Bay's failure to gain control of and settle his claim. I gave both parties a further 14 days to comment on my second provisional.

Mr W has said he is disappointed with my second provisional decision. He's said he had to make do with a car for a period of time as a result of West Bay not settling his claim, whilst still paying to insure and tax his van. And that he was due a courtesy van that he never got. And he doesn't see why his excess should be deducted when West Bay did nothing and never paid him anything in respect of his claim.

West Bay has said it doesn't agree with my second provisional decision. They've pointed out that if someone at A put something other than AdBlue in the tank of Mr W's van then it would be for A to address this, as the vehicle was in their possession. They've added that even if they did accept that there was accidental damage to Mr W's van, the flushing of the tank and system did not fix the problem and the van clearly had a mechanical or electrical fault. They've also suggested Mr W's failure to report his claim until February prejudiced their position, as they did not have the opportunity to inspect his van. They do not consider they could have taken control of the claim as I suggested they should have done, because A would not release the vehicle to them. And they've said if Mr W had reported the incident to them immediately they'd have moved his van to one of their approved repairers and diagnosed an electrical or mechanical fault and provided their position on the claim much sooner.

West Bay have also pointed out that when Mr W sold his van he would have been provided with a refund of premium and a refund on the tax to offset against the cost of insuring his new vehicle. And they don't agree with my view that their poor handling of the claim caused him to be without a vehicle for longer than necessary. Overall, West Bay believe the £300 in compensation for the inconvenience they caused Mr W is enough.

West Bay have also said that if they pay Mr W's claim he will have a fault claim against his record as they are not likely to recover what they pay out on it.

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've noted what Mr W has said. However, I'm satisfied that the additional £250 I have suggested in compensation for him being without his van is enough. I appreciate he had to make do with a car instead. But he didn't report his claim until February 2022 and by this time his van had already been off the road some time and with A. West Bay could have done more by liaising with A to gain the release of the van to one of their approved repairers, which would have meant Mr W got a courtesy van. But it seems Mr W was able to start working to some extent again by February as he had a replacement vehicle, albeit a smaller one than his van. And he did have the option to pay for the AdBlue tank/system on his van to be flushed out. Plus, it seems his van had an underlying electrical or mechanical fault, so I am not convinced that if West Bay had accepted his claim fairly quickly, his van would have been useable once they'd settled it.

I appreciate Mr W's frustration with the way West Bay handled his claim, but under the terms of his policy he has an excess to pay on any claim. And I've awarded compensation separately for the distress and inconvenience Mr W experienced.

I've also noted West Bay's comments, but they have not altered my view as to the fair and reasonable outcome of Mr W's complaint.

I agree Mr W's van probably had an underlying electrical or mechanical fault and that A were most likely responsible for the damage to the AdBlue tank/system. But this does not alter the fact that this damage was most likely caused accidentally. And this means Mr W has a valid claim under his policy for the cost of putting this right irrespective of the fact his van had an underlying electrical or mechanical fault. I don't agree the fact Mr W reported his claim late prejudiced West Bay's position; as I believe they should have been able to establish that Mr W's van had been damaged accidentally without the need for them to move it to one of their approved repairers. In any event, I think if they'd had better control of the claim and liaised with A, they could have come to an agreement on the repairs needed. So it remains my view West Bay should pay Mr W £315.98 to settle his claim, plus interest as set out in my second provisional decision.

I've noted what West Bay have said about Mr W selling his van. But he didn't do this until June 2022. And by this time West Bay had known about his claim for several months and still not agreed to settle it. So, it remains my view they should pay Mr W an additional £250 to compensate Mr W for being without his van.

I agree that if Mr W accepts this final decision and West Bay pay his claim they will be entitled to record a fault claim against his record in the first instance. Although, I'd expect them to look into and consider the possibility of recovering their outlay from A. However, whether they are able to do so will depend on a number of factors and it may not be practical or possible. So Mr W should understand that if he accepts this decision a fault claim will go on and may remain on his record.

Putting things right

For the reasons set out above and in my previous provisional decisions I have decided to uphold Mr W's complaint and make West Bay do the following to put things right:

- Pay him £315.98 in settlement of his claim, plus interest at 8% per annum simple from 6 May 2022 to the date of actual payment.

- Pay him £300 in compensation for general distress and inconvenience, less £150 if they have already paid him this amount.
- Pay him a further £250 for the inconvenience and expense of being without his own vehicle.

My final decision

My final decision is that I uphold Mr W's complaint about West Bay Insurance Plc and order them to do what I've set out above in the 'Putting things right' section.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 3 October 2023.

Robert Short
Ombudsman