

The complaint

Mr and Mrs M complain about how West Bay Insurance Plc (“West Bay”) settled a claim they made on their home insurance policy following a fire at a neighbouring property.

West Bay are the underwriters of this policy, i.e. the insurer. Part of this complaint concerns the actions of the agent. Since West Bay accept it is accountable for the actions of the agent, in my decision, any reference to West Bay includes actions of the agent.

The complaint is brought on behalf of Mr and Mrs M by a representative but, for ease, I’ve referred to Mr and Mrs M throughout my decision.

What happened

Mr and Mrs M have buildings and contents insurance with West Bay which started in April 2022.

Mr and Mrs M’s house was damaged by a fire in the neighbouring property in January 2023.

They say West Bay insisted on cash settling their claim based on a quote by one of its preferred contractors but the settlement was too low. Mr and Mrs M say the contractors refused to do the work and so they were told the claim would be cash settled.

Mr and Mrs M obtained a quote for the work which is around double the settlement offer from West Bay. They say they are unable to get the work done for the amount of settlement offered.

Mr and Mrs M say they’re vulnerable and have suffered a traumatic experience with their family home being damaged by a fire. They want West Bay to either instruct a company to carry out the work or approve their contractor’s quote and issue the funds accordingly. Because they weren’t happy they complained.

West Bay said it needed to validate the claim before it proceeded to deal with it, so it appointed its loss adjustor to do that. It said the extent of the damage was assessed and a quote was provided for the restoration work, to put the property back in the condition it was in before the incident. West Bay said it offered to carry out the restoration but the offer was declined. West Bay said since Mr and Mrs M chose their own contractors any costs for the work would be limited to what it would cost to West Bay. So West Bay didn’t uphold that part of the complaint. Since there was disagreement over costs, claim progression was impacted. West Bay accept there were some avoidable delays, due to a lack of effective communication, and this included some delayed payments. So West Bay upheld the complaint in part. By way of an apology West bay paid Mr and Mrs M £350.

Mr and Mrs M didn't agree with West Bay's response to the complaint and so they referred their complaint to this service. One of our investigators looked into things for them. He said the amount offered by West Bay didn't fairly reflect the cost of settling the claim. So he recommended West Bay pay £4,932 in settlement of the claim plus £350 to reflect the distress and inconvenience caused.

West Bay didn't agree with the investigator's assessment. It said it didn't think it should pay costs in line with Mr and Mrs M's contractor. West Bay also said cavity wall insulation (CWI) was costed on the invoice and it didn't agree to pay that. Mr and Mrs M insisted CWI didn't form part of the original complaint. Our investigator agreed with West Bay and so sent his view on whether West Bay should pay for CWI – he said he didn't think it should be covered. Mr and Mrs M objected to this aspect of the claim being considered as part of the complaint.

Because no agreement could be reached the complaint was referred to me to decide.

My provisional decision

I recently issued a provisional decision setting out my thoughts on the key complaint points and how I thought matters might best be resolved. I said;

"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 minded to uphold it. I'm issuing this as a provisional decision as I've gone further than our investigator and I'm proposing to require West Bay to pay additional compensation to Mr and Mrs M.

First, I want to recognise the impact this claim and complaint has had on Mr and Mrs M. I don't doubt the disruption and upset they have suffered without having access to their home. It's clear this matter has caused significant distress and inconvenience for them. I understand they have strong views about what's happened and I can empathise with the situation they find themselves in. I have read and considered everything I have received carefully.

I can see Mr and Mrs M have lived in their home for a number of years and can see why they'd want such issues sorted out as quickly as possible. Unfortunately this isn't what happened.

CWI

West Bay and our investigator think CWI should be considered as part of this complaint. On the basis that it formed part of the original invoice from Mr and Mrs M's loss assessor. So, my first point of consideration is whether CWI does form part of this complaint. And I don't think it does. I'll explain.

I've looked at West Bay's final response letter dated 8 June 2023 and in that letter West Bay outline Mr and Mrs M's complaint as follows;

- *Lack of communication led to delays,*
- *Some payments were delayed,*
- *Clothing not been cleaned,*
- *Payment raised without consent*

In the final response West Bay accept there had been delays and communication could have been better. So it paid Mr and Mrs M by way of an apology. West Bay didn't accept the

complaint about the payment for the clothing. There is no mention of CWI in the final response letter.

I also checked Mr and Mrs M's submission to this service which was by way of a complaint form. In that form the complaint is summarised as, "Insurers are insisting on cash settling contents on quotation provided by preferred contractor (circa £4,000) and own contractor (£8,000) Asked for another contractor to carry out the work but B refused to do this." Again there is no mention of CWI on the complaint form.

So, taking the above into consideration I'm satisfied that CWI didn't form part of the original complaint to this service. On that basis I don't intend to comment on it any further.

The invoice

West Bay obtained a quote from its contractor to deal with the cleaning and restoration of clothes and other textiles. Some payments were made in respect of the contents, such as approximately £800 for emergency cleaning of essential clothing items, and around £5,000 for textile restoration; both of these were Mr and Mrs M's own contractor.

From what I've seen there were outstanding costs relating to the following;

- Call out and scope,*
- Triage and disposal of items considered beyond economic repair,*
- Skips, POP (organic pollutants) waste and WEE (electrical equipment) disposal*
- Pack out and removal of restorable items*

West Bay's quote was for £8,446 plus VAT which totalled £10,137.60. Mr and Mrs M's quote was £9291 plus VAT £1,850.20 which totalled £11,141.20.

There was an alleged incident between the insurer's contractor and a family member of Mr and Mrs M. I have no evidence relating to this incident apart from West Bay's comments in the final written response dated 8 June 2023. West Bay say, "there are two conflicting versions of events, and it is difficult to establish the exact circumstances that surround what happened." As a result of the incident the contractor removed itself from the claim. Mr and Mrs M requested that West Bay appoint another contractor to quote for the work but it declined to do so.

Mr and Mrs M say West Bay paid for the storage so the remainder of the invoice is £8,446 plus VAT (£10,135.20). West Bay paid £5,205.60 towards the invoice but say that's the limit of its liability.

West Bay say it wasn't able to use its own contractor and so shouldn't be liable for Mr and Mrs M's costs. West Bay also say its contractor quoted Mr and Mrs M based on commercial rates rather than discounted insurer rates so its settlement offer is fair.

I've reviewed the evidence from West Bay. There is a note on the file that says the following; "If Mr M had called them (it's contractor) as an individual...following an incident directly, he would have been asked who his home insurance was with and offered the same insurer rates just the same." So based on what I've seen the quote provided does reflect insurer rates rather than commercial ones, and those won't apply to Mr and Mrs M's own contractor.

But, in any event, while there was a breakdown in the relationship between the insurer's contractor and Mr and Mrs M. Given the circumstances I would expect West Bay to take steps to try and resolve this quickly by appointing another contractor to carry out the work. Indeed, Mr and Mrs M asked that it did this, but the request was declined. It's clear to me Mr

and Mrs M tried to resolve the impasse with the insurers so the claim could proceed with no further delay. And West Bay didn't engage with them. So, I don't think Mr and Mrs M should be penalised as a result of this.

The purpose of the insurance policy is to indemnify Mr and Mrs M, that is, settle the claim fairly without them losing out. And in refusing to send out another contractor Mr and Mrs M are losing out – they have been forced to pay the remainder of the invoice.

So I don't think West Bay has treated Mr and Mrs M fairly here. I'm upholding this complaint and intend to direct West Bay to pay the outstanding invoice amount which is £4,929.60 less the VAT which I understand it has already paid. This leaves an outstanding sum of £4,108.

Impact on Mr and Mrs M

The relevant industry rules say an insurer should handle claims promptly and fairly. And I've thought about whether West Bay acted in line with this. And I don't think it has. West Bay accept there were delays in the handling of the claim. I think it should also have been aware that Mr and Mrs M would be significantly impacted by being uprooted from their home.

Mr and Mrs M provided detailed testimony about the impact of the matter on them. It has clearly been a devastating experience that has taken a lot of time and effort to try and resolve. A claim of this nature, where restoration works were required in the key areas of the home, was always likely to be a very disruptive and stressful experience for Mr and Mrs M. But I've had to decide what impact West Bay has caused over and above what might reasonably be expected, through its handling of the claim. Bearing that in mind it is my intention to uphold the complaint.

I am taking into account the fact that Mr and Mrs M are vulnerable and it would be difficult to expect them to arrange repairs themselves in the first instance, let alone 'shopping around' trying to find someone who could do the work for the settlement offered. Having considered the information available to me I think West Bay needs to pay Mr and Mrs M more compensation for the distress and inconvenience caused to them. I've considered Mr and Mrs M's comments carefully – and their submission goes into some detail about the events which occurred.

The Financial Conduct Authority's ("FCA") guidance for businesses on the fair treatment of vulnerable consumers states, "Firms should take additional care to ensure they meet the needs of consumers at the greatest of harm...firms should also act early to prevent risk of harm emerging or growing."

The guidance also states, "firms should be asking themselves what types of harm or disadvantage their customers may be vulnerable to, and how their own actions can increase or reduce the risk of harm."

I've thought about how this applies in the circumstances of Mr and Mrs M's complaint. They have explained how Mrs M's mental and physical health deteriorated as a result of living in alternative accommodation; it's clear the matter had an impact on their quality of life. But West Bay didn't always communicate effectively and there were disagreements over whether certain costs should be paid or not; and this added to the overall length of the claim.

West Bay paid £350 in compensation for distress and inconvenience. I've thought about this carefully. It's not our role to punish businesses where they haven't acted fairly towards consumers, but given the circumstances described I have detailed what I think would be reasonable below.

Overall I'm not persuaded West Bay has given sufficient consideration to Mr and Mrs M's circumstances in its offer of compensation. So I find an additional £250 would fairly reflect the heightened distress and upset caused to Mr and Mrs M.

As explained I'm also intending to direct West Bay to pay the remaining £4,108 towards the invoice plus 8% simple interest from the date Mr and Mrs M paid the invoice to the date of settlement".

Response to my provisional decision

I asked both parties to send me any further evidence or arguments they wanted me to consider.

West Bay provided some general observations and comments but no new evidence. West Bay say the invoice is in excess of any normal commercial price but hasn't provided any evidence. It also referred to the alleged incident between the contractor and a family member which led to the contractor refusing to attend to complete the work. So I refer West Bay to its final response letter which says, "*there are two conflicting versions of events, and it is difficult to establish the exact circumstances.*" And given the exact circumstances aren't established then I think a pragmatic view should be taken.

Mr and Mrs M agreed with the conclusions set out in the provisional decision.

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 have carefully considered what West Bay has said in response to my provisional decision. Having done so my position has not been altered.

I remain of the view that West Bay should indemnify Mr and Mrs M for the damage covered by the terms of the policy. And I'd expect to see that the settlement actually does what it's supposed to – that is, put the consumer back in the position they were before the damage occurred.

Prior to the alleged incident, even though Mr and Mrs M had obtained their own quote they had agreed to use the insurer's contractor. And so I think if West Bay had instructed another contractor to undertake the work its likely Mr and Mrs M would have been amenable to that. I haven't seen anything that suggests they insisted on using their own, more expensive contractor.

In light of the fact there has been no new information or evidence provided in response to my findings set out in my provisional decision (which I've reproduced here and which forms part of this final decision), I'm satisfied it represents an appropriate way to resolve the dispute. For the reasons set out above I'm upholding Mr and Mrs M's complaint.

Putting things right

Given the conclusions I've reached, as set out above, I direct West Bay to;

- Pay the remainder of the invoice of £4,108 plus VAT; totalling £4,929.60
- Add interest to the above at a rate of 8% simple per year from the date the invoice was paid to the date of settlement.
- Pay Mr and Mrs M an additional £250 to reflect the distress and inconvenience.

My final decision

For the reasons explained I uphold this complaint and direct West Bay Insurance Plc to put things right by doing what I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M and Mr M to accept or reject my decision before 23 August 2024.

Kiran Clair
Ombudsman