

The complaint

Mr W complains about West Bay Insurance Plc's settlement of his claim for replacement of a chipped car windscreen.

What happened

The background to this complaint is complicated, but it's very well known to both parties. So, I'll provide only a brief summary here, but Mr W and West Bay can be assured I've considered all the information and evidence we have on file.

Mr W has car insurance underwritten by West Bay. He made a claim after his windscreen was chipped.

West Bay arranged for a windscreen replacement, to be carried out by their supplier (which I'll call A).

In short, after the replacement was carried out, Mr W was unhappy because the new windscreen didn't appear to match the rest of the windows in his car. The other windows were tinted, the windscreen appeared not to be.

Mr W has made complaints to West Bay and to A about the service they provided. And he then brought his complaint about the windscreen replacement to us because he wasn't satisfied with West Bay's response.

Our investigator looked into it and didn't think West Bay had treated Mr W fairly and reasonably. They said West Bay should re-open the claim and look to provide a satisfactory solution for Mr W. And they should pay Mr W £150 in compensation for the trouble and upset he'd experienced due to West Bay's errors or omissions.

West Bay disagreed and asked for a final decision from an ombudsman. It's also fair to say that Mr W wasn't convinced that West Bay would be required to provide a suitable solution if they re-opened the claim.

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 some sympathy with both Mr W and West Bay. This is a difficult situation. And the problem has arisen because the manufacturer of Mr W's car no longer produces windscreens to the same specification as the one in Mr W's car.

I'm going to focus on where we are now, rather than set out a chronology of events. I think that's the best way to explain my decision in this case.

The replacement windscreen currently fitted in Mr W's car (by A) does not match the other windows. That's indisputable from the evidence Mr W has provided to us.

Mr W agreed to that windscreen being fitted, but only because he needed his car and couldn't wait for his dispute with West Bay to be resolved before he had it back in functional order. That's clear from the recordings we have of telephone conversations between Mr W and A just before the replacement windscreen was fitted.

In brief, Mr W was entitled to think he was reserving his position on whether the replacement was ultimately acceptable and was not agreeing to accept the proposed replacement as a lasting solution.

Under Mr W's policy's terms, he's entitled to a replacement for a damaged windscreen which is of the same specification or equivalent. In terms of the general principle of insurance, if he doesn't get that then he hasn't been indemnified for his loss. And, as I say, he clearly hasn't got that right now.

It has become apparent – and the evidence for this is an email between A and West Bay from 14 February 2024 – that A were in touch with the car manufacturer about Mr W's windscreen.

That email says the manufacturer had confirmed that Mr W's car had - from the point of manufacture, which is something West Bay and A have persistently (and wrongly) questioned with Mr W – tinted and heat-reflecting glass in the windscreen (and other windows presumably).

So, to indemnify Mr W properly under the policy terms, West Bay need to fit a replacement windscreen that is tinted and heat-reflecting.

The manufacturer also confirmed for A that they do not produce that specification of windscreen any longer. And my sympathy for West Bay arises here because that then makes it quite difficult for them to provide an immediately obvious solution to the settlement of the claim.

That problem has been exacerbated because Mr W has refused a number of options put to him by A and/or West Bay.

Mr W insisted that the windscreen should be produced by the manufacturer of the car. And as I've said, they don't produce the exact same specification of windscreen any longer. He's also reluctant to accept a second-hand windscreen from the same model and age of car – which *would* be an exact match, but second hand.

At points during our handling of this case, Mr W has said he could find another supplier to fit a matching windscreen (if West Bay would pay the invoice). But that proved impossible.

And he's said he can find a matching windscreen and have it fitted. But he had concerns about the lack of warranty on a second-hand windscreen. And he seems to think it wouldn't be covered by his insurance if it were damaged in future.

Taking all of that into account, I agree with our investigator that West Bay need to re-open this claim and look to provide a suitable solution for Mr W, rather than leave him with a windscreen which is clearly not a match for the specification of the original.

I also agree they should pay compensation to Mr W for his trouble and upset. It appears to have taken an unnecessarily long time for them (and A) to bottom out the facts around the windscreen fitted originally and the lack of an exact equivalent currently available from the manufacturer.

That lack of clarity has led to this situation dragging on unnecessarily and to a degree of frustration and stress for Mr W as he's tried to get a consistent narrative from West Bay about what his options were.

West Bay re-opening the claim won't however provide any finality to Mr W's complaint, as he himself has pointed out. And I'm keen that the parties have a clear way forward to finalising the settlement of the claim. So, I'm going to suggest a way forward, which I will expect West Bay to follow. If they don't, Mr W will be entitled to make a further complaint.

The policy does not require West Bay to replace damaged parts with parts sourced from the car's manufacturer. That's clear in the policy terms and I want to make that clear here. Mr W isn't entitled under the policy terms to require West Bay to use the manufacturer's windscreen – which, as I've said, they don't produce any longer anyway.

So, West Bay must try to source and have fitted a windscreen which matches the specification of the windscreen for Mr W's model of car. In short, it should have the same tint and the same heat-reflecting properties. That will properly indemnify Mr W under the terms of the policy.

If – and only if - it is impossible for West Bay to source a windscreen of the same specifications (from someone other than the manufacturer), they should agree to pay for Mr W to find and have fitted the windscreen he prefers (as long as it doesn't exceed the original specification). In this scenario, I'd expect Mr W to provide a quotation for the replacement, to be agreed by West Bay in advance of the work being carried out.

Finally, ff - and only if – both of the options above prove impossible and/or Mr W doesn't wish to source his own windscreen replacement, then West Bay should pay Mr W the cost (at the time of payment) of fitting the closest model of windscreen that the car manufacturer currently produces (including both parts and labour).

I note that Mr W has an endorsement on his policy which says that if his car is written off, West Bay will do all they reasonably can to return the car to Mr W as part of the settlement of his claim.

Mr W has suggested on more than one occasion that an alternative option to finding and fitting a suitable windscreen might be for West Bay to write the car off and pay him its value in line with the policy terms.

Just to be clear, we wouldn't ever require West Bay to write a car off and pay out under the policy (and return the salvage to the customer) because of a chipped windscreen.

I make that clear just so that Mr W doesn't mistakenly think that is a possible outcome of this complaint - or any future complaint he might make to us - if no other solution is in fact agreed upon in the meantime.

Putting things right

To be clear, West Bay will now need to pay Mr W £150 in compensation for his trouble and upset.

They will also need to re-open the claim. And deal with it in the manner described above, taking the suggested options for settlement in the order I've set them out.

My final decision

For the reasons set out above, I'm upholding Mr W's complaint.

West Bay Insurance Plc must:

- pay Mr W £150 in compensation for his trouble and upset; and
- re-open Mr W's claim and settle it in accordance with the potential solutions set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 1 November 2024.

Neil Marshall
Ombudsman