

The complaint

Ms M complains that West Bay Insurance Plc unfairly cancelled two motor insurance policies she held with it.

Reference to West Bay includes its agents.

What happened

Ms M held two motor insurance policies with West Bay taken out through a broker – policy A and policy B. Policy A was taken out in 2020 and renewed in subsequent years, the last one being in November 2022. Policy B was taken out in 2023.

West Bay says Ms M answered the question it asked about her claims history incorrectly. It says that if it had it told her the correct information, it wouldn't have renewed policy A in 2022, nor would it have offered policy B. Because of this it says it's entitled to cancel both policies. It returned a pro rata proportion of the premiums back to Ms M.

Ms M didn't think this was fair. She's acknowledged there are claims she should have told West Bay about, but thinks the resulting cancellations are unfair.

West Bay didn't change its stance, so Ms M brought her complaint to us.

One of our Investigators recommended the complaint be upheld. They didn't think West Bay had shown Ms M was asked about her claims history when the policy renewed. So, they didn't think it had shown Ms M had failed to take reasonable care not to make a misrepresentation under the relevant law. They recommended West Bay pay Ms M £100 compensation, remove the record of cancellations from internal and external databases and provide a letter explaining the policies were cancelled in error.

West Bay didn't agree with our Investigator. It said the policy was sold by a broker which was entirely separate to itself. It says it's entitled to cancel the policies.

Our Investigator asked West Bay for some more information, West Bay hasn't responded to that request, despite multiple chasers. So, the case has been passed to me for an Ombudsman's decision.

I issued a provisional decision which said I was thinking of upholding the complaint. It said:

- *The relevant law here is the Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA). This requires consumers to take reasonable care not to make a misrepresentation when taking out a consumer insurance contract (a policy). The standard of care is that of a reasonable consumer.*
- *If a consumer fails to do this, the insurer has certain remedies provided the misrepresentation is - what CIDRA describes as - a qualifying misrepresentation. For it to be a qualifying misrepresentation the insurer has to show it would have offered the policy on different terms or not at all if the consumer hadn't made the*

misrepresentation.

- *In this case West Bay says Ms M failed to take reasonable care when asked about her claims history. It's said the policies were taken out and renewed by a broker, completely separate to itself. This would mean it's not responsible for the questions the broker asked Ms M. But it is responsible for the questions it tells the broker to ask.*
- *I've seen the broker script which clearly asks about claims history, so I'm satisfied it's something West Bay wants the broker to ask. Whether the broker actually asked or not isn't the responsibility of West Bay.*
- *In this case, Ms M has acknowledged there are claims she should have told West Bay about. But just because she's acknowledged that, it doesn't make it true. All it does is confirm that there's an acceptance the claims were made.*
- *All of the alleged undisclosed claims occurred after policy A was taken out. So I need to see what these claims relate to, such as what policy they were made on and what vehicle they relate to.*
- *This is important, because when considering whether or not Ms M failed to take reasonable care not to make a misrepresentation, I need to consider information West Bay was aware, or ought to have been aware of.*
- *In essence, even if Ms M didn't tell West Bay about the claims at the renewal of policy A in 2022, or when policy B was taken out, if West Bay knew, or ought to have known about, these claims already, then Ms M hasn't failed to take reasonable care. I note this is actually the case for one claim West Bay alleges it wasn't made aware of when policy B was taken out. This claim, made in 2018, was declared when policy A was taken out, and each time it renewed. So, this is information I'm satisfied West Bay knew about, so I don't consider Ms M failed to take reasonable care not to make a misrepresentation on this particular claim in respect of policy B.*
- *But that still leaves two more claims, one dated in 2021 and one in 2022 that we've not been provided details of. Without this information, I'm not satisfied West Bay has done enough to show Ms M failed to take reasonable care not to make a misrepresentation. Because I can't be satisfied they are claims West bay didn't know or ought to have known about*
- *Therefore, I'm not satisfied it's shown that it's entitled to cancel the policies. And so, it must take steps to put things right. West Bay should remove any record of the cancellation of both policies from both internal and external records.*
- *It's not clear whether Ms M purchased new policies or not. But if she did, the cancellation of these policies is likely to have had an effect. This effect is most likely not only in terms of the price of the policy, but it will also affect the choice of insurers she's able to insurer with. Not all insurers provide cover for people who have had a policy cancelled (such is their commercial right). Those that do often don't rate highly on the cancellation itself.*
- *This means providing a letter confirming the policies were cancelled in error and asking any new insurer to reate the policy on that basis might not go far enough in putting Ms M back in the position she'd have been in had these policies not been cancelled.*

- *So, to put that right, on receipt of Ms M providing a valid schedule of insurance (or other comparable evidence) confirming the policy is as close as like to like to the one that West Bay cancelled, West Bay should pay Ms M the difference in the cost of that policy(those policies) and the policy(s) that it cancelled, less the pro-rata refund it's already returned to her. The policies being cancelled will have caused distress and inconvenience to Ms M whether that be arranging new policies sooner than she expected or simply not being able to use the vehicles, so to compensate for that, West Bay should pay her £200 compensation.*

I said to put things right West Bay should:

- *Remove any record of the cancellation of both policies from internal and external records.*
- *Pay Ms M the difference between any like for like policy she purchased having had to declare a previous cancellation, and the cost of the policy cancelled by West Bay less the pro-rata refund it's already paid. This payment is subject to Ms M providing West Bay with evidence as set out above. Simple interest at a rate of 8% per annum should also be applied to any payment made under this point. Interest should be calculated from the date Ms M paid for any comparable new policy to the date West Bay pays her.*
- *Pay Ms M £200 compensation for the distress and inconvenience caused by its cancellation of both her policies.*

Ms M responded and said the impact of the two cancelled policies was greater than what I'd set out. She said she had five cars, each with their own policy and that these two cancelled policies had impacted all those policies in different ways. In summary she said:

- She couldn't get insured on a like for like policy for policy A. No one would offer cover so her co-driver had to insure it themselves.
- She couldn't get a policy like for like for policy B either. This car was subsequently insured by her son at a significantly increased cost.
- She couldn't afford the renewal quote for a third car so had to sell the car.
- A fourth car's renewal quote (car D) was too expensive leading her to have to leave the car in the garage until she could afford to renew it a year later.
- A fifth car (car E), her main car, the insurance premium increased as a result of declaring the cancellation.

She said the whole situation led her to effectively put her motorsport hobby on hold, because it became too unaffordable to continue.

This information was provided to West Bay for its consideration. West Bay said it would send us information about the undisclosed claim by the deadline set, but nothing followed.

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 terms of the main reasoning, I've not been provided anything to persuade me to change my decision. Therefore, I'm still not satisfied West Bay's cancellation of Ms M's two policies was fair. It's simply not evidenced that this is the case as set out above.

However, what I require West Bay to do to put things right differs slightly based on the information Ms M sent us.

In the scope of this complaint, Ms M is the complainant, not her co-driver nor her son. So I don't require West Bay to take any action in relation to policies A and B set out above. Ultimately because policies aren't hers, any cost relating to them isn't a loss she herself has incurred.

I do however require West Bay to pay Ms M the difference between what the insurance policy on cars D and E was pre the cancellations of policy A and B, to what it was post these cancellations, for the same reasons as set out in the body of the provisional decision above. I think this can be reasonably attributed to West Bay's actions when cancelling policies, A and B.

It's clear too that the impact, both in terms of distress and inconvenience is much greater than the £200 originally recommended. Ms M has had to put on hold a hobby, sell one vehicle and leave the other in a garage. I'm satisfied compensation of £750 is fairer in the circumstances.

My final decision

For the reasons set out above, I uphold this complaint. To put things right, West Bay Insurance Plc should:

- Remove any record of the cancellation of both policies from internal and external records.
- Pay Ms M the difference between any like for like policy she purchased for car E and D having had to declare a previous cancellation, and the cost of these policies in the renewal immediately prior to it. This payment is subject to Ms M providing West Bay with evidence of the policies pre and post cancellation, showing the price rise is as a result of the cancellation, and not for example a further claim. Simple interest at a rate of 8% per annum should also be applied to any payment made under this point. Interest should be calculated from the date Ms M paid for any comparable new policy to the date West Bay pays her.
- Pay Ms M £750 compensation for the distress and inconvenience caused by its cancellation of both her policies.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 7 March 2025.

Joe Thornley
Ombudsman