

The complaint

Mr H has complained that West Bay Insurance Plc has unfairly refused to pay his claim under his motor policy for a damaged vintage cherry picker.

What happened

On 21 August 2024, Mr H was reversing his cherry picker out of this garage or storage facility when the top of the cherry picker arms hit the top of the shutter, causing damage to the hydraulic rams which caused the seals to leak heavily.

Mr H initially said West Bay told him to remove the rams from the vehicle as they were leaking oil everywhere. West Bay denies this. Regardless the rams were removed.

Mr H provided an estimate for their repair of £5,736. There was some delay in West Bay sending out their independent engineer to assess the damage. When that report was available in October 2024, the independent engineer said the vehicle wasn't present for inspection, but the two rams were, but in a stripped state. He found them with no damage. From that he decided that he couldn't understand how enough pressure could have been applied to the rams in order to damage the internal seals, without also causing damage to the rams and other parts.

That meant West Bay's independent engineer considered the seals failed due to wear and tear. Wear and tear damage is excluded under the policy so on that basis West Bay refused to pay Mr H's claim.

Mr H produced a report from his repairer who said it was clear on their inspection of the hydraulic cylinder that the impact damage caused in the collision of the front of the lift against the shutter had caused the seals to fail requiring them to be rebuilt or replaced. They found no evidence of wear or tear or deterioration on the hydraulic cylinders to suggest another cause of failure.

West Bay wouldn't change its stance but did agree its consideration of Mr H's claim had been delayed so it paid him £250 compensation. It said if Mr H could provide another report disputing the findings of its independent engineer, it would consider it again.

Mr H remained dissatisfied, so he brought his complaint to us. The investigator was of the view that seals would perish over time as West Bay had indicated, so she was of the view West Bay hadn't done anything wrong in the absence of any further report from Mr H.

Mr H disagreed so his complaint has been passed to me to decide.

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.

Having done so, I'm not upholding this complaint. I'll now explain why. I do understand and appreciate that Mr H will be disappointed by my decision.

We asked Mr H to provide this further report from his repairers if he wished to do so. Sadly, that has not been forthcoming yet, but I understand Mr H has been dealing with a bereavement for which he has my sincerest condolences too.

Mr H's vehicle is 45 years old therefore it is road tax and MOT exempt. It is used in a private capacity so not commercially; therefore it doesn't need LOLER certificates or anything else. Mr H was in the process of cutting his hedge and he said he had used this vehicle the day before with no issues. There is also no evidence to show me he had any previous issues with it either. It does appear it was simply an older cherry picker vehicle which West Bay insured on a private motor policy.

The policy states the following:

'Section A – Loss of or Damage to the Insured Vehicle

*This section only applies if the cover shown on **your Policy Schedule** is Comprehensive.*

What is covered

We will cover you against loss or damage to the insured vehicle (less any excess that applies) caused accidentally or as a result of malicious damage or vandalism.'

Under 'What is not covered' it says:

'Wear and tear, mechanical or electrical breakdown including failure of any equipment, integrated circuit, computer chip, computer software or computer related equipment and failure or breakages of any part due to the application of brakes or road shocks.'

Clearly given Mr H said the shutter of the garage where this cherry picker was being kept at the time wasn't fully open as he drove out. So, the arms of the cherry picker hit the top of the shutter. Mr H said as a result the seals on the rams broke or failed and oil and hydraulic fluid were leaking all over the place.

There is no evidence as the investigator detailed in her view, that West Bay told Mr H to remove the arms before viewing the damage. I consider it was far more likely that given the resultant oil spillage Mr H got a mechanic to remove them for him instead, understandably though, given the oil spillage issue. Then Mr H was quoted £5,736 for their repair hence the claim.

In general terms, it is for the policyholder to prove they have a valid claim. It would have helped West Bay if the vehicle and the rams were both available to be examined by any engineer instructed by West Bay. So, I consider this limited the ambit of what the independent inspection could achieve, which can't be the fault of West Bay or its independent engineer. This is an unusual vehicle, but I have no information why the vehicle wasn't also available for inspection. Further I don't consider West Bay did anything wrong in wanting its independent engineer to inspect the damage, I consider that was reasonable.

Sadly, there was considerable delay in West Bay sorting this out and the inspection didn't take place until early October with the report not being available until 25 October. West Bay have compensated Mr H for this delay. For the avoidance of doubt, I consider that this compensation was reasonable and in line with our general approach to compensation more fully detailed on our website. It also included compensation for some delays Mr H encountered in trying to contact West Bay too.

Essentially all that was available for West Bay's engineer to examine were two completely stripped rams. They showed no damage at all. So, the engineer concluded based on that, that the seals must have split or burst due to wear and tear issues rather than solely from hitting the shutter. The evidence of this being the fact there was no damage on the rams themselves.

Mr H's repairer said initially that he was clear the impact damage caused the seals to fail. He also confirmed there was no wear and tear on the hydraulic cylinders. Later he confirmed there were no damage to the lift, arms, or rams. And like West Bay's engineer concluded the rams showed no signs of wear or tear either. He remained of the view therefore the impact caused the seals to fail.

However, the seals are made of rubber which can obviously perish. And Mr H's repairer didn't explain why they wouldn't have perished over time. He made no mention of the rubber seals at all. Therefore, I consider it's reasonable to consider these rubber seals were perishing and that the accident impact effectively burst them, given the car was 45 years old. Additionally, there is no evidence to show me that the seals were maintained or inspected as of course there were no LOLER reports required given the age of the vehicle.

So, on balance I consider the conclusion West Bay's independent engineer came to seems reasonable and rational. Namely that 45 year old rubber seals burst or failed due to wear and tear and obviously helped by the impact but actually not caused by the impact. The policy, in line with virtually every other motor policy, doesn't provide cover for issues or damage caused by wear and tear. So, unless Mr H can demonstrate the rubber didn't perish, (which he hasn't done to date), then I don't think he's adequately proved his claim here. So, on that basis, I have to conclude that West Bay hasn't done anything wrong in declining to pay his claim.

I also consider it reasonable that West Bay said they would look at the matter again if Mr H provided this further report. We also gave Mr H time to provide that further report, but it hasn't materialised yet. So, unless Mr H does provide a further report to West Bay, I don't consider West Bay has to do anything more here.

My final decision

So, for these reasons, it's my final decision that I am not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 25 September 2025.

Rona Doyle
Ombudsman