

## The complaint

Mr H complain about how West Bay Insurance Plc handled his motor insurance claim.

References to West Bay include its agents.

## What happened

The details of the claim are well known to both parties, so I won't repeat them again here. Instead, I'll summarise the background.

Mr H bought a motorbike using finance. He insured the motorbike with West Bay in August 2021. Mr H's policy requires him to comply with the following endorsement added to his policy, which I'll call the garaging condition in this decision.

*'You have agreed that you will keep your vehicle in your locked garage or building, at your home address, to which only you and anyone with your permission have access. If a theft or attempted theft of your vehicle happens at any time and within 500 metre radius of your home address when the vehicle is not locked in this garage or building we will not pay the claim. This restriction does not apply to any loss or damage occurring whilst your motorcycle is parked away from your home during the course of a journey.'*

On 18 March 2022, Mr H's motorbike was stolen from a car park. The matter was reported to the police, and, after some time, a claim was made on his policy with West Bay.

Mr H was asked for information about the claim by West Bay to verify the circumstances of the claim and ensure he'd complied with the terms of the policy. During this process, Mr H sent West Bay two photos of the garage he'd stored the motorbike in at the policy address. West Bay found these images were from a website advertising garages, with the garage image supplied by Mr H available at a price of £4,350 plus VAT.

West Bay carried out further investigations and invited Mr H to a meeting to discuss his claim and support this with a statement of truth. Mr H wasn't willing to do this. West Bay reminded Mr H of his obligation to assist under the policy terms and asked him to reconsider but he didn't change his mind.

A site visit was conducted by West Bay but no garage nor residential property was found at the location of the address given by Mr H. Instead, a shipping container was located with a mailbox marked with the first line of Mr H's address (with the last three letters missing) and local neighbours confirmed they knew Mr H and the container is known as the address Mr H had given. Further, the agent confirmed nothing in the area matched the image Mr H supplied of his garage.

Ultimately, West Bay explained a policy wouldn't have been offered in these circumstances. And it relied on the following points to determine there had been a breach of the terms and conditions of the policy and decline Mr H's claim. As Mr H's policy had already lapsed, it didn't avoid it.

- Mr H failed to provide a residential address at policy inception, knowing there was no building at the address provided which could be used for residential purposes.
- Mr H supplied images of a garage which wasn't located at the policy address. And he made a false statement this was where his motorbike was stored.

Mr H didn't agree. He complained but West Bay didn't change its decision, so Mr H brought his complaint to this service. He says West Bay haven't provided any credible evidence to support these claims and makes the following points, in summary.

- The site visit was months after the theft, therefore, how can West Bay know what it was like on the date of the theft.
- The garage he'd sent images of to West Bay in July 2022 was demolished before 29 March 2022. The images were from the internet as he was abroad and not able to take the photos. But also, it'd been demolished.
- He was no longer resident at the property.
- How does the agent know:
  - o the location of the property, there's no title plan or anything he's seen to locate it.
  - o there's a container on site - he can only see a colour.
  - o the mailbox has anything to do with the address he gave – it doesn't have all the letters of the name of the address.

An Investigator reviewed matters and upheld it. However, West Bay didn't accept their findings. As the parties couldn't agree, the matter was passed to me for a decision. My provisional decision was shared with both parties on 16 January 2023 and an extract is set out below.

*'I recognise I've summarised this complaint in far less detail than the parties and I've done so using my own words. I'm not going to respond to every single point made by the parties involved. No discourtesy is intended by this. Instead, I've focussed on what I think are the key issues here. Our rules allow me to do this and it reflects the informal nature of our service as a free alternative to the courts. If there's something I've not mentioned, it isn't because I've ignored it. I've given careful consideration to all of the submissions made before arriving at my decision and I'm satisfied I don't need to comment on every individual argument to be able to reach what I consider to be a fair outcome.'*

*Having done so, I must explain to Mr H I'm currently intending not to uphold his complaint. So, I don't intend to West Bay to do anything to put things right. I'll explain why.*

*Firstly, I think it's important to explain I'm only considering the declined claim in this complaint.*

*The starting point of any claim made under an insurance policy is the contract between the consumer and the insurer - the policy document.*

*Mr H's policy requires him to comply with the garaging condition. The policy also entitles West Bay to decline a claim and cancel a policy where it's satisfied there has been a breach of general condition 1. An extract of General Condition 1 is set out below.*

*'If you or anyone acting on your behalf knowingly commit a fraudulent act or submit a fraudulent document or make a fraudulent statement or exaggerate any claim made under the policy, we will not pay the claim and cover under this and all other insurances currently in force with us with which you are connected will cease immediately. You will not be entitled to any refund of premium under any policy.'*

*West Bay was entitled to investigate Mr H's claim. And, in the process of doing so, it had fair and valid concerns about the residential address given by Mr H and his inability to comply with the garaging condition as a result as well as the validity of the evidence provided by him. So, it was reasonable to request the information it did, carry out further investigations including site visits and seek further information from Mr H, verified by a statement of truth.*

*I note the comments made by Mr H but I don't consider his explanations are plausible. And his elusivity fails to overcome the points relied on by West Bay. So, despite ample opportunity to explain matters and provide evidence to support the claim, I can't see Mr H has done so.*

*Considering the information provided, I'm satisfied had West Bay been aware of the situation with the residential address provided by Mr H, it's likely it wouldn't have offered a policy to him and wouldn't have been on risk at the date of the claim. Further, I accept it's likely Mr H provided a false statement and documents to support his claim. It follows West Bay was fairly and reasonably able to decline Mr H's claim as a result. And I don't currently consider it'd be appropriate for me to interfere with its decision to refuse Mr H's claim, or to require it to take any other action.'*

Mr H responded to say he disagreed with the provisional decision. He said at no point has fraud been mentioned because there hasn't been any. The Investigator explained this was referred to in the letter from West Bay declining to deal with the claim dated 4 April 2023. Mr H raised responded raising, in summary, the following points.

- The Ombudsman's judgement isn't impartial.
- He didn't make the claim immediately to give the police the opportunity to find the motorbike and he was travelling.
- He gave an in-depth report to West Bay and it failed to tell him what more was required.
- West Bay delayed and likely failed to obtain the police report. It also delayed matters.
- A lot can change in the time it took for West Bay's representative to visit the site.
- It's defamation to say his claim he dismantled the garage is false. There's no evidence the garage didn't exist at the date of the theft. Further, the motorbike wasn't stolen from the garage and so the condition is irrelevant.
- If the decision goes against him, he will consider legal action against West Bay and the Ombudsman.

### **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 reviewed the parties replies to the provisional decision and they've not persuaded me to change my provisional decision.

As explained previously, I'm only considering the declined claim in this complaint.

The matters raised by Mr H in response to the provisional decision have previously been set out by him. They were, therefore, already considered. Having done so, I didn't find his explanations were plausible. And his elusivity failed to overcome the points relied on by West Bay. So, despite ample opportunity to explain matters and provide evidence to support the claim, I couldn't see Mr H had done so. The response to the provisional decision hasn't altered this position.

As explained in the provisional decision, I'm satisfied - had West Bay been aware of the situation with the residential address provided by Mr H - it's likely it wouldn't have offered a policy to him and wouldn't have been on risk at the date of the claim. Further, I accept it's likely Mr H provided a false statement and documents to support his claim. It follows West Bay was fairly and reasonably able to decline Mr H's claim as a result. And I don't uphold Mr H's complaint in this matter.

### **My final decision**

My final decision is I don't uphold this complaint against West Bay Insurance Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 26 March 2024.

Rebecca Ellis  
**Ombudsman**