

## **The complaint**

Ms K and Mr B complain about how West Bay Insurance Plc handled a motor insurance claim.

West Bay's been represented by an agent for the claim and complaint. For simplicity I've referred to the agent's actions as being West Bay's own.

Ms K is the main policyholder. Mr B is a named driver. Mr B has been the main contact for this complaint. However, for simplicity I've generally referred to the comments and actions of Mr B as being those of Ms K.

## **What happened**

Ms K held a West Bay motor insurance policy. In February 2023 a claim was made to West Bay for damage to the car. The reported damage was mould resulting from water ingress.

West Bay declared the car a total loss. Ms K agreed to a settlement and salvage retention deduction offered by West Bay. However, after reviewing the description of damage West Bay considered declining the claim. It attempted to arrange an engineer inspection. However, Ms K didn't respond to the engineer's attempts at contact. It transpired that Ms K had, thinking the claim had been settled, sold the car's salvage. That meant an inspection wasn't possible. West Bay informed Ms K the claim was now to be declined. It felt the damage hadn't been caused by an insured peril (a cause of loss or damage covered by Ms K's policy).

Ms K wasn't happy with that decision so raised a complaint. She said she had been led to believe a total loss payment was being made. She was disappointed West Bay had changed its position.

West Bay issued a final response to the complaint. It accepted it was responsible for confusion at the start of the claim. It accepted it hadn't provided an adequate level of service. It offered £100 compensation as an apology. However, West Bay didn't agree to settle the claim. It said again that the damage hadn't been caused by an insured peril. It was instead the result of wear and tear.

Ms K didn't accept that, so referred her complaint to the Financial Ombudsman Service. She said she had lost out financially because of West Bay's actions. She wants it to cover the cost of a replacement vehicle.

After this Service requested its complaint file West Bay reviewed its earlier compensation offer. It said Ms K had been incorrectly advised about the total loss and had experienced a loss of expectation. It offered a further £200 compensation. But it maintained its position that the damage isn't covered by the policy.

Our Investigator felt West Bay's position that the damage wasn't covered by the policy to be fair. She didn't agree it should pay the claim on the basis that it had previously offered a settlement. The Investigator felt £300 compensation was enough to recognise the impact of

any failings by West Bay – including it changing its position on the claim settlement. So she didn't recommend it pay anything more or do anything differently. As Ms K didn't accept that outcome the complaint was referred to me.

### **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.

As this is an informal service I'm not going to respond here to every point or piece of evidence Ms K and West Bay have provided. Instead I've focused on those I consider to be key or central to the issue. But I would like to reassure both that I have considered everything submitted.

I've first considered West Bay's decision to ultimately decline the claim. Ms K's policy covers her car against specific insured perils - these are accidental or malicious damage or vandalism.

There's been no reports of malicious damage or vandalism. So I've considered 'accidental damage'. The policy doesn't define 'accidental damage'. In the absence of a policy definition I consider an accident as something 'unforeseen and unintentional'.

West Bay said Ms K didn't describe an accident, event or impact that caused the water ingress and in turn the mould. No such event was described in the claim notification call. Instead weather was reported as the cause of water ingress. Since the claim decline Ms K has described a stone causing a crack in the sunroof. That crack allowed water ingress. I might consider such a stone incident as accidental damage.

However, I'm not persuaded that's most likely what happened. Ms K didn't refer to the sunroof issue or stone damage until the complaint was with this Service – around 12 months after the initial claim. In addition there's no photo, or other evidence, to support there being a crack or other likely 'accidental damage' responsible for water ingress. A further inspection may have identified a crack or other identifiable accidental damage. However, considering everything I can't say it most likely would have.

Having considered everything I'm not persuaded there was any relevant 'accidental damage'. Overall I'm satisfied West Bay's decision to ultimately decline the claim was fair and in line with the terms of the policy.

Ms K feels that West Bay, having agreed a settlement, shouldn't be allowed to change its mind. I accept it would have been better if it had considered the claim properly in the first instance and hadn't agreed a settlement with Ms K. I can understand how a reversal of the decision would be disappointing. But that doesn't mean it would be reasonable to require it to settle a claim that isn't covered by the policy terms. I consider West Bay's failure here was to mislead Ms K that her claim would be settled. I don't consider its ultimate decision not to settle the claim to be a failure.

So I've considered the impact of that misleading information. Ms K explained without it she would have chosen a lower cost replacement car. She said the expected settlement payment had been factored into her budget for the new car. So I've considered if West Bay can be fairly said to have caused Ms K a financial loss.

After a salvage deduction of £760 the total loss settlement Ms K agreed to was about £1,860. She says she purchased a new car for around £4,000. I accept it possible Ms K did buy a higher value car than she might otherwise. However, that doesn't mean she

experienced a financial loss corresponding to the amount she expected to receive from West Bay. First of all any additional money spent would be reflected and retained in the value of the new car.

There was around a month between Ms K agreeing the settlement and West Bay telling her it would be declining the claim. It's unlikely the new car will have lost significant value in that time. So she could have, if necessary due to financial pressures arising from not receiving the anticipated claim payment, sold it on – and purchased a lower priced one.

I accept there's some inconvenience to all this for Ms K - and perhaps some distress. But I'm not persuaded there's most likely been an unrecoverable financial loss for her. So I'm not going to require West Bay to pay anything to cover financial loss.

West Bay's accepted Ms K had been incorrectly advised about the claim outcome. It offered £300 compensation to recognise the loss of expectation that caused. I agree with the Investigator that its already done enough to make up for the impact of West Bay's mistake. So I'm not going to require it to pay Ms K any additional compensation.

### **My final decision**

For the reasons given above, West Bay Insurance Plc will need to pay Ms K £300 compensation (subject to any amount already paid).

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B and Ms K to accept or reject my decision before 5 August 2024.

Daniel Martin  
**Ombudsman**