

The complaint

Mr A complains West Bay Insurance Plc caused him a loss of income through poor handling of his commercial motor insurance claim.

What happened

Mr A's a taxi driver. In late December 2022 he claimed against his West Bay taxi insurance policy. His taxi had been damaged in a collision. He felt the damage meant it was undrivable. West Bay accepted the claim and arranged repairs. After various delays the repaired car was returned to Mr A in late April 2023.

Mr A didn't have courtesy car provision under his policy. So he didn't have access to a replacement car to continue his taxi work. He complained to West Bay about its communication and delay during the claim. He felt it had, by taking longer than necessary to repair his car, caused him financial loss – primarily through loss of income.

West Bay responded in April 2023. It apologised for providing Mr A misleading information about repair completion. It accepted it had caused him trouble and upset. West Bay agreed it had caused avoidable delay and financial loss. It offered £500 compensation. It said it would consider Mr A's claim for financial loss. To allow it to do that it requested he provide various information, including two years of income and tax evidence.

Mr A didn't provide that information to West Bay. Instead he asked this service to consider his complaint. He provided this service with some information about his taxi earnings during various periods, but not everything requested by West Bay. Our Investigator forwarded that evidence to West Bay. It said as he hadn't provided most of the information it had requested it was unable to assess his loss of earnings.

Following that our Investigator considered the complaint. He felt West Bay was responsible for avoidable delays, leaving Mr A without the use of his car, for around six weeks. He felt West Bay's request to see two years of accounts information was unreasonable. So he considered the income and expenditure evidence Mr A had provided. Having done so he recommended West Bay pay loss of earnings for six weeks at £1,200 per week. He felt its original offer of £500 compensation was fair – so didn't recommend it pay any additional compensation.

West Bay didn't accept that recommendation. Neither did it make a counteroffer. It felt additional information was required from Mr A to make a meaningful calculation of his loss. West Bay requested that this service, rather than set a specific cash award, instead direct it to pay loss of earnings subject to completion of a forensic accountant assessment. As the complaint wasn't resolved it was passed to me to decide.

I issued a provisional decision. As its reasoning forms part of this final decision I've copied it in below. In it I explain why, whilst I consider West Bay did cause avoidable delay, I intend to allow it the opportunity to quantify and reimburse Mr A's loss. I also requested he and West Bay provide any further information they would like to consider before issuing this final decision. Neither provided anything.

what I've provisionally 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 intend to come to a different outcome to the Investigator. I haven't considered Mr A's loss. Essentially, I feel, whilst West Bay did cause avoidable delay to Mr A's claim, its response to his complaint was fair and reasonable. So the fair outcome is for it to be allowed an opportunity, before this service makes a judgement, to quantify and reimburse Mr A's loss.

West Bay accepted it should have repaired his car sooner. It offered a fair amount of compensation, £500. Most importantly it accepted the principal, that although his policy doesn't provide for loss of earnings, its poor service caused him a financial loss that it should reimburse. In principle its reasonable for West Bay to have requested evidence of Mr A's recent financial history to allow it to calculate his potential loss. I haven't considered the fairness of the exact information it listed in its complaint response. I think it's likely a generic list West Bay provided as a starting point. I'd expect it to discuss with Mr A the evidence he can reasonably provide.

This service is required to consider what's fair and reasonable for both Mr A and West Bay. And having made a reasonable proposal West Bay should, before this service gets involved, be allowed a chance to follow it through and propose a fair settlement – based on the evidence Mr A provides.

In addition West Bay's shown it has access to the services of a forensic accountant. That could provide for a more informed assessment of Mr A's potential losses than this service might be able to. We generally don't have access to that type of expertise. For example an accountant should have a greater knowledge of tax or benefit implications – including the impact of any losses or reimbursement payment on Mr A's Child Tax Credit entitlements.

I understand Mr A didn't want to provide all the evidence West Bay requested in its final response letter – and that he would prefer this service to consider his financial loss. But overall I feel the fair and reasonable outcome is to allow West Bay a chance to consider the evidence he can provide or is willing to.

If Mr A's unable or unwilling to provide some of the information West Bay feels is required, then the two parties can try to find a compromise. If that's not possible or ultimately Mr A isn't satisfied with West Bay's offer he can consider raising a further complaint. This service may, depending on the exact circumstances, be able to consider it. But, as I've said, West Bay should be allowed an opportunity to make an offer first.

I'm clarifying a few issues here should Mr A bring a further complaint to this service. I haven't for this complaint addressed the actual financial loss he incurred, the evidence he's been able or willing to provide or if West Bay's acted fairly by insisting on specific information. Those issues would be better considered after both have had an opportunity to discuss the details of the loss, the available evidence and tried to come to a fair settlement.

I realise, as our Investigator took a different approach, that this proposed outcome is likely to be frustrating for Mr A. I apologise if this service has been inconsistent. But

that wouldn't be West Bay's fault. So it shouldn't be an obstacle to it being given an opportunity to resolve Mr A's complaint without our involvement.

So as I consider West Bay responded to Mr A's complaint fairly and reasonably, I don't intend to require it to do anything differently – like reimburse him for financial loss.

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 haven't been provided with anything to persuade me to change the outcome I proposed in my provisional decision. So for the reasons set out above, I'm not going to require West Bay to do anything differently.

My final decision

For the reasons given above, I don't uphold Mr A's complaint.

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

Daniel Martin
Ombudsman