

The complaint

Ms S says esure Insurance Limited undervalued her car when she made a motor insurance claim. She also complains about prejudicial remarks made to her and esure's poor service.

What happened

Ms S's car was written-off in a non-fault accident. esure initially offered her £2,966 for it. After Ms S disagreed with the valuation, esure increased it to £3,599 – but at that point it said there was pre-existing damage on the car, so it deducted £350. Ms S complained to esure about the valuation. She supplied two reports from garages that said there was no pre-existing damage. She said esure's communication was poor, and that an employee of its repairer had made remarks relating to her disability and her gender that greatly upset her.

esure said its valuation and the deduction it had made were correct. It apologised for how she felt about the comments and said it had asked the repairer to investigate. It said it thought any shortfalls in its communication were dealt with by an extension it made to Ms S's car hire. esure acknowledged that Ms S didn't think its complaints process was transparent, although it disagreed. It said the process was set out in the policy booklet.

One of our investigators reviewed Ms S's complaint. She thought esure's valuation was fair, but she didn't think it had shown it was reasonable to make a deduction for pre-existing damage. She thought its images of the damage were poor and noted that Ms S's images showed no damage other than that caused by the accident. The investigator noted that esure and the repairer accepted that the remarks reported by Ms S were made but said they weren't meant to upset her. In the investigator's view, the remarks were inappropriate. And she thought there was poor service from esure, as Ms S had to chase it for updates.

esure didn't agree that it should pay Ms S the sum deducted or pay her £200 for distress and inconvenience, as the investigator proposed. It said it would have expected Ms S to raise the repairer's comments with it much sooner than she did if she was so upset by them. It sent us further images of the damage. Ms S said the marks showing on the car looked like patches of dirt and reflections. She provided video evidence taken when esure first mentioned pre-existing damage that she thought showed there wasn't any. She said she'd asked esure to view the car, rather than rely on third party images, but it hadn't done so.

As there was no agreement, esure asked for a review of the complaint by an 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.

The valuation

It isn't clear why the first offer Ms S was given was below the car's market value, and I understand why she wasn't happy with it. But esure's engineer reviewed it, relying on the

valuations in the national trade guides, to arrive at the car's market value of £3,599. So I'm satisfied that Ms S was offered the appropriate sum for the car after rejecting the first offer.

Pre-existing damage

The garage provided an estimate to esure setting out details of where it thought the pre-existing damage was, plus the cost of putting each part right. I can see why esure thought a thorough assessment had been done. The total cost of repairing the extra damage was estimated at over £1,200. But I don't think a repair estimate alone is enough to show there's pre-existing damage to a car. So I've looked very carefully at all the images provided.

In my opinion, the ones provided by Ms S are clear, and they don't show any pre-existing damage to the car. I don't think the images provided by esure are as clear. There are reflections on the car – one of which I think could easily be interpreted as damage to the doors on the driver's side. The investigator asked for close-up shots and commented that we often expect to see measurements of damage too. esure wasn't able to provide these. And it didn't provide images with the damage circled, as requested.

Ms S provided the brief comments made by two garages she asked to review the car. They didn't find any pre-existing damage. esure doesn't think their views are of any value, as the reviewers' qualifications aren't known. But in my opinion, they were from garages and they're one part of the overall evidence. Ms S's videos (which provide close-up views of the doors in particular) don't show any damage to them. Ms S offered to send the videos to esure on 19 October 2021, but it seems her offer wasn't taken up. And her request for esure to view the car (or to get an independent person to do so) wasn't acted on.

Taking everything into account, I don't think esure has been able to show that it acted fairly and reasonably in making a deduction for pre-existing damage. I think it could have done more to clarify the issue given that Ms S said very early on that she was shocked by the claim of pre-existing damage and had video evidence to show there was none.

Poor service

It looks as though esure didn't provide us with a complete set of its file notes, as there seem to be gaps. But from the ones we have I think it's clear that Ms S had to chase esure for updates, especially about the car hire - and also about the promised contact from a senior engineer about the valuation. These issues were particularly important to Ms S, as someone with mobility issues. Without a hire car or her own car back (or a total loss payment) Ms S was unable to get out and about independently. So I think any delays and a lack of updates are likely to have impacted more on her than on an average consumer.

It looks as though Ms S didn't realise where she was at times in the complaints cycle. I think that's partly because she got an email on 5 October 2021 saying that she'd reached the end of the complaints process and could complain to us. Ms S then got another final response letter on 21 October 2021, which addressed all her issues. So I can see why she was confused, despite the complaints process being set out in the policy booklet.

Prejudicial remarks

esure says Ms S told the repairer she was disabled. She agrees that she mentioned it, purely to make it clear that she needed the car back quickly, due to her mobility issues. esure says the repairer was trying to help Ms S by advising her that she should get a car on the government's Motability scheme. But she was offended by the fact that he gave unsolicited advice to her as a disabled person – and she was shocked and upset that he assumed she was on benefits. Ms S says he also referred to women he knew who were 'emotionally attached' to their cars, yet were grateful in the end to have them written-off.

esure says we only have Ms S's account of what was said. But I don't think there's any reason to doubt it - and the repairer hasn't said it's not accurate.

I've considered the provisions of the Equality Act 2010, as it's the relevant law here, but ultimately, I've reached my conclusions based on what's fair and reasonable. If Ms S wants a formal decision on whether the law has been breached, she would need to go to court so a judge could consider the matter.

I think it's clear why Ms S was so offended by the comments made by the repairer's employee. However helpful he may have meant to be, in my opinion what he said relating to Ms S's gender and disability was inappropriate and unwelcome. Ms S has explained just how distressed she was at the time and afterwards. esure says if that's accurate, it would have expected her to complain earlier than she did. I think some consumers would have done, but people react differently in upsetting situations. In my opinion, the delay in reporting the incident is irrelevant to the level of distress felt by Ms S. I appreciate that esure apologised for how she felt, but I don't think that alone is sufficient.

In summary

In order to resolve Ms S's complaint, I think it would be fair and reasonable for esure to pay her the £350 it deducted from her total loss settlement (plus interest). I also think esure's service could have been better in terms of its communication with Ms S, and that she faced a fair amount of distress due to the repairer's remarks. So I also think it would be fair and reasonable for esure to pay Ms S £200 compensation.

My final decision

My final decision is that I uphold this complaint. I require esure Insurance Limited to do the following:

- Pay Ms S £200 for distress and inconvenience
- Pay Ms S the £350 deducted from her total loss payment
- Add interest to the £350 at the simple yearly rate of 8%, from the date the total loss payment was made to the date of settlement

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms S to accept or reject my decision before 3 May 2022.

Susan Ewins
Ombudsman