

The complaint

Mrs and Mr J had buildings and contents insurance with esure Insurance Limited (esure). They complain about how esure dealt with a number of claims for damage to their garden wall and hedge. References to esure include other organisations and individuals acting on its behalf.

What happened

Over a period of about 18 months there were four separate incidents where cars crashed into Mrs and Mr J's garden wall, fence and hedge, causing damage in a different place each time. Each time they claimed on their home insurance. Mrs and Mr J were unhappy with the settlement figures offered by esure on the claims, which they said weren't enough to cover the costs of repairing the damage. They provided estimates from their builder. Mrs and Mr J were also unhappy that esure wouldn't agree to cover the costs of maintaining the newly planted hedge so that it would be returned to what it had been.

Mrs and Mr J say at one point there were four different claim handlers dealing with the different claims, and they would call Mr J when he was at work and didn't have the necessary paperwork with him. They say things improved when esure agreed to have one claim handler and to communicate by email, but errors were still made.

Mrs and Mr J complained to esure. Esure accepted that there had been shortfalls in its service including some delay, and paid Mrs and Mr J £150 to say sorry.

Esure paid the first claim based on Mrs and Mr J's own builder's estimate. There was no payment for the ongoing maintenance of the hedge. Mrs and Mr J provided estimates for the next three claims but esure said these were too high. Esure offered to appoint contractors to carry out the work. Esure said if Mrs and Mr J didn't want its contractors to do the work, it could pay them what the contractor would have charged. However there were then delays in the contractors arranging with Mr J a suitable time to visit to assess the work needed.

As the claims were still not settled to Mrs and Mr J's satisfaction, they complained to this service. Our investigator upheld the complaint in part and suggested esure and Mrs and Mr J settle the claims by having the contractor visit to produce an accurate scope of work and quote, including work needed to the hedge.

Mrs and Mr J say they were not keen for esure to use its own contractors to do the work as they weren't happy not knowing who would be working at their property. They say they looked up one of the suggested contractors online and found very bad reviews. However they say esure still insisted this contractor quote for the work. Mrs and Mr J say this contractor wouldn't agree to come and do the site visit in the evening or at weekends when Mr J was at home, so there was a further delay.

Our investigator suggested that, as esure had accepted Mrs and Mr J's own builder's quote for the first claim, it should accept their quotes for the subsequent three claims. Esure and Mrs and Mr J agreed to this.

However esure then said the hedge was covered by Mrs and Mr J's contents insurance policy not their buildings insurance, and the limit on their contents insurance meant the claims for the hedge couldn't be paid in full. Mrs and Mr J and our investigator pointed out to esure that according to the terms of the policy, the hedge was covered by the buildings insurance and so the claims for it should be paid in full. It did appear to take a little while for esure to accept this.

After esure agreed to accept Mrs and Mr J's quotes for the work, there were further delays. Mrs and Mr J had to get new up to date quotes for the work, and had difficulty contacting the relevant people at esure to find out what was happening, and particularly to get a breakdown of esure's proposed settlement.

Mrs and Mr J also asked esure about recovering the excess on each claim from the insurers of the drivers that caused the damage, as they had the details of all the cars. Esure said it was only looking to recover the excess from one of the incidents. Mrs and Mr J complained to esure about this. This doesn't form part of Mrs and Mr J's complaint to this service, but if it is not resolved it is open to them to make a new complaint.

Mrs and Mr J also complained to esure about the further communication issues, including the difficulties getting the settlement breakdown. Esure paid Mr and Mrs J a further £100 to say sorry for the trouble and upset caused.

Our investigator said he didn't think esure should have to pay for the ongoing maintenance of the hedge as the policy wasn't there to cover this. Mrs and Mr J weren't happy so their complaint has been passed to me. Mrs and Mr J want their home returned to its previous condition and they want esure to cover the full cost of this. They have also asked whether they can be compensated for their distress and inconvenience.

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 uphold Mrs and Mr J's complaint in part. I'll explain why.

On 8 September I issued a provisional decision. My provisional decision said:

I intend to uphold Mrs and Mr J's complaint in part. I'll explain why.

Mrs and Mr J have spent a considerable amount of time and effort in dealing with these claims. They say this has impacted on Mrs J's health, and they have both been very distressed by the condition of the wall and hedge around their home. Mrs and Mr J say they were told to make their property safe but not clear anything away until the claims were settled. So there were piles of bricks from the wall left in their garden. Some of the wall was replaced with chipboard panels to secure the garden. I've seen photos of the front of the house and I can see how Mrs and Mr J would be upset by its unsightly appearance over an extended period.

This should have been a straightforward situation and the four claims should have been settled quickly. Instead the situation has been ongoing for some four years. So I think esure should further compensate Mrs and Mr J for their distress and inconvenience.

With regard to the maintenance of the hedge, Mrs and Mr J say there is a British Standard which states that new hedges should be watered regularly throughout the growing season for the first three years. They say this is a cost of time and water they wouldn't have incurred

if the hedges hadn't been damaged. Mrs and Mr J have provided some further information about this, but it relates to trees, which I don't think is directly relevant to establishing a new hedge.

My role is to consider whether esure have dealt with Mrs and Mr J's claims in accordance with the terms and conditions of their policy and in a fair and reasonable way. I think any garden hedge needs maintenance and I'm not persuaded that maintenance connected with establishing a new hedge is covered by the terms and conditions of Mrs and Mr J's insurance policy. So my provisional view is that it was fair and reasonable for esure to refuse to pay for the ongoing maintenance of the hedge.

Mrs and Mr J said they would obtain a report from an arborist about maintenance for the new hedge, and also write a letter outlining all their complaints and concerns. They asked for extra time to do this, which we've given them. However we haven't received the letter or report. If Mrs and Mr J have any further information I'd ask that they send it now and I'll consider it.

My provisional decision

For the reasons given above I intend to uphold Mrs and Mr J's complaint in part. I intend to require esure Insurance Limited to pay Mrs and Mr J a further £300 for the distress and inconvenience caused by the delays, errors and communication issues in settling their claims.

Responses to my provisional decision

Esure didn't respond to my provisional decision.

Mrs and Mr J responded reiterating the points they've made throughout their complaint. They didn't provide an arborist report or any other expert evidence.

I have very carefully considered Mrs and Mr J's comments. However based on the evidence I don't think there's any reason to change my provisional decision.

So I still think it was fair and reasonable for esure to refuse to pay for the ongoing maintenance of the hedge. However I am still of the view that esure should compensate Mrs and Mr J for their distress and inconvenience.

My final decision

For the reasons given above I uphold Mrs and Mr J's complaint in part. I require esure Insurance Limited to pay Mrs and Mr J a further £300 for the distress and inconvenience caused by the delays, errors and communication issues in settling their claims.

Esure Insurance Limited must pay the compensation within 28 days of the date on which we tell it Mrs and Mr J accept my final decision. If it pays later than this it must also pay interest on the compensation from the date of my final decision to the date of payment at 8% a year simple. If esure Insurance Limited considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mrs and Mr J how much it's taken off. It should also give Mrs and Mr J a certificate showing this if they ask for one, so they can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs J and Mr J to accept or reject my decision before 6 December 2022.

Sarah Baalham
Ombudsman