

The complaint

Mr H complains about esure Insurance Limited (EIL) and their decision to decline the claim he made on his home insurance policy.

What happened

Mr H held a home insurance policy that was underwritten by EIL. This policy provided cover for the contents of his home.

In early March 2022, Mr H contacted EIL to make a claim on his policy, after damaging his laptop. EIL arranged for the laptop to be inspected by a third-party company as part of the claim, who I'll refer to as "B".

B inspected the laptop and decided it was beyond economical repair (BER). So, they provided a value for the laptop of £1,924.98. And they advised they had been unable to find a suitable replacement for less than £1,500.

After considering this information, EIL decided to decline the claim. They explained Mr H had failed to specify the laptop as a High-Risk Item, as he should have done due to its value. So, they explained the maximum they would pay to replace his laptop would be £1,500. And as a suitable replacement of a similar specification couldn't be found for less than this amount, they declined the claim and didn't offer Mr H anything more. Mr H was unhappy about this, so he raised a complaint.

Mr H didn't think EIL's decision to decline his claim was fair. He didn't think he'd done anything wrong when not specifying the laptop, as he didn't think it was worth more than £1,500 when he took out the policy due to its age. So, he didn't think EIL acted reasonably when deciding to decline the claim on the basis that a replacement couldn't be found for less than the £1,500 limit on the policy for unspecified items. So, he wanted EIL to provide him with a cash settlement, stating B's suggestion put to him of £1449.99.

EIL didn't agree. They thought they'd acted within the terms and conditions of the policy when declining the claim. And they maintained their view that Mr H had failed to specify the laptop as a High-Risk Item when he should've done. So, they didn't think they needed to do anything more. Mr H remained unhappy with this response, so he referred his complaint to us.

Our investigator looked into the complaint and upheld it. They accepted that EIL acted in line with the terms and conditions of the policy when declining the claim. But they explained our service must also be satisfied it was fair for EIL to do so. And they didn't think it was. They didn't think EIL had acted fairly by relying on a more expensive model to consider the replacement costs, when Mr H's laptop was significantly older and had since been discontinued. Our investigator thought EIL could've offered Mr H the chance of a cheaper alternative that would've fallen under the £1,500 limit, as EIL themselves admitted they would've provided a replacement had one been found and agreed. So, our investigator thought EIL should either provide Mr H with an agreeable replacement worth below the £1,500 limit or offer Mr H a cash settlement to the same value, less any excess if this isn't

possible.

Mr H agreed with this recommendation. But EIL didn't. They thought they'd considered the replacement based on a reasonable like for like basis, relating to the laptop screen size. And that all of these models were worth more than the £1,500 limit. So, they thought they had acted fairly, taking the same decision they would've done with any other customer at the time. So, they maintained their view that they shouldn't be required to do, or offer, anything more. As EIL didn't agree, the complaint has been passed to me for a decision.

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.

Having done so, I'm upholding the complaint for broadly the same reasons as the investigator. I've focused my comments on what I think is relevant. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

First, I think it would be useful for me to explain exactly how I've considered the complaint. When thinking about EIL's decision to decline the claim, I need to be satisfied they acted in line with the terms and conditions of the policy Mr H held.

In this situation, it's not disputed that Mr H didn't specify the laptop as High-Risk. While I appreciate why Mr H didn't, as he considered what it was worth in his mind considering its age etc, I must also consider the fact the laptop cost Mr H around £2,500 when he bought it. And it was valued by B at just under £2,000. So, I think it should've been specified, and it wasn't.

And I've seen the policy terms and conditions, which explains "*We will not pay under any section of the Policy for any single item valued at £1,500 or more that has not been listed as a Specified Item*". So, as the laptop was valued at more than this amount and was not specified, I think EIL did act in line with the terms and conditions of the policy when declining it.

But crucially, I must also be satisfied that EIL were fair to do so, in the individual circumstances of Mr H's claim. And in this situation, I don't think they were.

EIL have confirmed to our service that, had they been able to replace Mr H's laptop for under £1,500, they would've done so, regardless of the term I've quoted above. But EIL have said they were unable to replace Mr H's laptop for a similar specification under this price and so, this is why they've relied on that term.

But I don't think EIL were able to fairly replace Mr H's laptop like for like, due to the age of the laptop and the likely advances in specification over the 10 years he had it. So, while I understand why EIL chose to look at replacements using the same inch screen, I think they could've considered looking at replacements of a lesser specification, or smaller screen, that may have fallen under the £1,500 limit the policy set for claims on unspecified items.

And even if this replacement wasn't available, by EIL confirming they would've replaced Mr H's laptop despite the exclusion they've relied upon, then I think they were always willing to provide Mr H with a settlement worth up to £1,500. So, where a replacement wasn't available, I think Mr H should've been given the opportunity to choose a lesser specification with his agreement or, receive a cash settlement to the same amount less any policy excess applicable.

But he wasn't provided this opportunity. And so, I don't think it was fair for EIL to then turn to the policy exclusion that left Mr H without both the laptop, and the value of the settlement EIL have admitted they were willing to pay. As I don't think EIL acted fairly here, I've then thought about what I think EIL should do to put things right.

Putting things right

Any award or direction I make is intended to place Mr H back in the position he would've been in, had EIL acted fairly. In this situation, had EIL acted fairly, I think they would've given Mr H the opportunity to choose a model of a lesser specification that fell within the £1,500 limit set within the policy. Or, where this wasn't possible, I think Mr H should've received a cash settlement worth up to the policy limit, less any excess he would need to pay for the claim. So, I think EIL should work with Mr H to provide one of these options, on a mutually agreeable basis.

I understand EIL is unlikely to agree with this. And I want to recognise EIL's concerns about ensuring Mr H is treated the same as any other customer. But crucially, this isn't something that impacts the decision I've reached on this specific occasion. My role here is to consider the individual circumstances of Mr H's complaint on its own merits, thinking about its own set of circumstances to decide what I think a fair outcome would be.

And I also think it's worth noting that, within the internal system notes I've seen, EIL have acknowledged that the way they handle these kind of situations, and the options they provide their customers, changed in the month after Mr H made his claim. And this change means that, under this new process, Mr H would've been offered the chance to receive a cash settlement less any excess applicable on the policy. While I don't intend to speculate on why EIL implemented this change, I think this change ensures customers in similar situations receive fairer treatment and in this situation, I think the same principles should be applied to Mr H's claim.

My final decision

For the reasons outlined above, I uphold Mr H's claim about esure Insurance Limited and I direct them to take the following action:

- Agree a replacement model with Mr H that falls below the £1,500 policy limit; or,
- Provide Mr H with a cash settlement to the same value, up to the limit of the policy, less any applicable policy excess that's payable.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 19 December 2022.

Josh Haskey
Ombudsman