

## **The complaint**

Miss W complains about how Esure Insurance Limited, trading as Sheila's Wheels ("Esure") handled her car insurance claim after she'd been in an accident that wasn't her fault.

## **What happened**

Miss W has motor insurance with Esure.

Miss W was involved in a road traffic accident in September 2021. Miss W says her vehicle toppled to one side and ended up in a ditch. The other driver admitted fault since his vehicle didn't stop.

Miss W says her car was written off and the insurer arranged for it to be retrieved from the ditch. Miss W says she also contacted her GAP insurer on the same day.

Miss W didn't hear from her insurer after five days and so she contacted them. She says the insurer hadn't had sight of her car and didn't know where it was. Miss W says the insurer didn't know where her car was for over ten days.

Miss W says she spent a significant amount of time contacting Esure and chasing the initial claim. She has had to borrow money in order to purchase a replacement car due to the amount of time taken to resolve the claim. She wasn't able to take out any further finance since the previous loan remained outstanding. Esure also told Miss W she would receive her loss of earnings shortly after the initial claim had been settled. But she didn't receive it. And so she complained to Esure.

Esure told her its supplier had been instructed to collect the car and take it to storage but due to an administrative error the correct address details weren't provided. This caused delay. Esure accepted there had been further delay with the valuation of Miss W's car and that she had to contact it several times. Esure explained Miss W's loss of earnings was being dealt with by its recoveries department as an uninsured loss it was trying to recover from the third-party insurer. Esure apologised for the service Miss W received and paid £100 to reflect the distress and inconvenience caused.

Miss W wasn't happy with Esure's response to her complaint. She wants her loss of earnings paid together with compensation to reflect the stress she has been under for more than seven months while trying to deal with her claim. So she referred her complaint to this service.

The investigator looked into things for her. He partly upheld the claim. He said it was clear there were initial delays and mistakes during the claim. But he thought more could have been done by Esure to explain the process of claiming her loss of earnings so he awarded a further £75. Esure didn't agree with the investigator's outcome. It said it firmly believed the £100 paid and the extension of the hire car adequately reflected the delays in the claim.

Since Esure 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.

I want to recognise the impact this complaint has had on Miss W. I've no doubt it would have been upsetting for Miss W to have been involved in a road traffic accident which wasn't her fault. And I understand why she feels unfairly treated by Esure. She feels Esure should have managed her claim more efficiently rather than adding to her distress.

I've focused my comments on what I think is relevant. If I haven't commented on a specific point it's because I don't believe it's affected what I think is the right outcome.

## **Not kept up to date throughout the claims process**

Miss W feels Esure didn't communicate with her as she would have expected. I've reviewed the information provided by both sides. I can see Miss W had to chase Esure on more than a few occasions.

Esure accepted it didn't communicate with Miss W as it should have and accepted there were some avoidable delays at the beginning of the claim. So it paid her £100 by way of compensation. I think this is fair in the circumstances and in line with what I would have recommended.

## **Loss of earnings claim**

Miss W made a claim for her loss of earnings in September 2021. When she contacted Esure in October and November she was told it was being dealt with by its recoveries team. I can see Esure instructed its solicitors in July 2022 when it hadn't heard further from the third-party insurer.

Esure say it explained to Miss W that her loss of earnings wouldn't be sent to the third-party insurer until they had their own costs on the file. I appreciate this is standard practice but I haven't seen anything that shows Esure adequately explained to Miss W what this meant for her claim.

Miss W wasn't kept informed of this part of her claim. I have listened to the calls in respect of the loss of earnings claim. Miss W repeatedly asks what the delay is and when that part of her claim will settle.

Loss of earnings isn't a claim made on the insurance policy in the same way as insured losses are. Loss of earnings are an uninsured loss and so they are submitted to the third-party insurer for their agreement to pay. Its clear from the calls I've listened to that Miss W wasn't aware of the process for claiming for loss of earnings, and when she asked Esure for clarification, it didn't communicate as I would have expected it to. And so this led to increased frustration for Miss W.

Taking everything into account I think Esure's communication around the loss of earnings claim has been poor and has caused Miss W frustration at not knowing what's going on.

I know Miss W wants Esure to pay her for the loss of earnings. However this isn't something she is automatically entitled to under the terms of the policy and so I am not able to compel Esure to pay this themselves.

### **Putting things right**

It's inevitable some inconvenience will be caused as a result of having to make a claim, and that isn't Esure's fault, but overall I think a further £75 is fair and reasonable compensation to reflect the issues I've highlighted.

### **My final decision**

For the reasons I've explained I uphold Miss W's complaint and direct Esure Insurance Limited to pay Miss W an additional £75.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss W to accept or reject my decision before 3 February 2023.

Kiran Clair  
**Ombudsman**