

The complaint

Mr C has complained about his car insurer esure Insurance Limited (Esure) regarding the settlement it made to him after his car was damaged in an accident.

What happened

Mr C had an accident in late January 2022. He had a previous accident in November 2021, the damage for which was still outstanding and awaiting repair when the January 2022 accident occurred. Esure, in assessing the January 2022 damage, felt the car was repairable – but then it reviewed the condition of the car and decided it was in a general poor state. So it decided to treat the car as a total loss. Esure viewed industry guides that will give market values for cars but determined that the poor condition meant the values returned couldn't be relied upon. It felt the condition would drastically affect the car's value – making it about half of what its market value might otherwise have been. It paid Mr C £1,710, less the policy excess. Mr C was unhappy and complained.

Mr C mentioned the previous repair to Esure and that he hadn't had settlement for it. Esure wasn't minded to change its view on the settlement it had provided in response to the January claim. Mr C also told Esure he felt he'd had poor service from it – promised call backs, for example, had not been received. Esure said that was because it had decided not to call Mr C due to his behaviour in a call with its engineer. When Mr C complained to this service Esure said it had chosen not to charge Mr C a salvage value for him retaining the car, and nor had it applied a proportional settlement to the claim. The latter it said it could have done because Mr C had done more miles in the car than the policy allowed for.

Our Investigator felt Esure's settlement had not been fair and reasonable. She felt Esure should pay an additional £1,504 to Mr C – based on the industry guide prices without deduction for the condition of the car. She also felt Esure's service had been poor at times – but noting its decision to not apply any deduction for salvage or a proportional settlement, she felt no further compensation should be awarded.

Mr C said he was satisfied with the outcome. Esure said it disagreed with it. It said that its engineer had determined the impact the condition of the car would have on its market value – but that there was no method to or reasoning behind that decision. Esure provided some repair values for some areas of the car it felt were in poor condition – but didn't explain what the purpose of that detail was meant to show. Esure's engineer then clarified that because of the poor condition of the car its settlement value had been obtained by reference to what a 'trade' price within the industry guides, for the car would be (usually the 'retail' price is used).

Our Investigator told Esure that she felt all of the 'poor condition' issues it had identified – and provided a cost for repair for – were actually most likely accident related damage. She confirmed that her view about Esure's settlement, and what she felt it needed to do now, had not changed. The complaint was passed for an Ombudsman's 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 find my view is the same as that reached by our Investigator. I think Esure sought to settle this claim unfairly and unreasonably and it must now make an additional payment to Mr C to resolve that. Also like our Investigator, I think Esure could have handled the claim better at times – but noting the choices it has made regarding salvage and proportionality, I don't intend to make it pay compensation.

It was always up to Esure how to settle this claim. But, when viewing a car as a total loss, Esure knows that this service often finds it fair and reasonable to rely on industry guides to determine the market value of cars. Sometimes an expert opinion also needs to be sought and applied – but where that is the case we would still expect that opinion to be based on some kind of reasoning. Until recently Esure hadn't provided any reasoning to support the value it had ascribed for the market value of Mr C's car. It has now said that it used the 'trade' value from the guides. But that makes little sense to me as the 'trade' value in the guides is used for trade to trade sales – not to account for pre-existing damage.

In any event, Mr C was unlucky enough here to be involved in two accidents in fairly quick succession. Certainly quick enough that Esure hadn't managed to sort the first claim out when the second accident occurred. And the major areas of concern for Esure as potentially affecting the market value still seem to be related to either the first or second accident. With other issues to the car not amounting to more than the type of damage any buyer might expect to see for a car of this age. And I note that our Investigator checked the value that would be applied for Mr C's car in the guides if it was felt to be in "poor" condition – and the value returned didn't change from that given when the car was said to be in "good" condition. I think that is reflective of the fact that most buyers expect older cars to come with some level of damage. Overall I think Esure hasn't shown that it settled Mr C's claim fairly and reasonably. So I need to think about what a fair and reasonable market value is.

Our Investigator noted that the industry guides returned the following values for Mr C's car:

- £3,360
- £3,350
- £3,217
- £2,930

She noted that an average of those would be £3,214.

As noted above – this service often finds the use of the industry guides to be a fair and reasonable way to determine the market value for a car. In this case, averaging those figures makes sense to me. And nothing presented by Esure makes me think it would be unfair and unreasonable to rely on them/their average in this instance when thinking about what a fair and reasonable settlement is for this claim/complaint. So I don't think it would be fair or reasonable for that average value to be adjusted at all.

Mr C had an excess of £550. Deducting that from the average sum gives a value of £2,664. I think this is the sum Esure should have originally paid in settlement to Mr C for his claim. But it paid him £1,160 (which included the excess deduction). I think Esure should now pay Mr C the difference remaining between £2,664 and £1,160, which is £1,504. To this sum Esure should apply interest* from the date its previous settlement payment was made (17 May 2022) until this further payment is made. This is because Mr C has been without these funds which he was reasonably entitled to receive.

I appreciate that Mr C received bad service on occasions from Esure. I can understand Esure choosing not to communicate with Mr C on the phone – but it should have told him it

had made that decision and not promised him call backs that were never going to be made. I think the first claim was also delayed and that Esure failed to take account of that when assessing the January 2022 claim. I think Mr C has been quite frustrated by Esure's handling at times. But I note that Esure chose not to make deductions from the claim settlement and, on this occasion, I think that fairly and reasonably discharges any liability it might otherwise have to Mr C to pay him compensation. I don't think it would be fair or reasonable for me to make it pay compensation as well.

Putting things right

I require Esure to pay Mr C £1,504, plus interest* applied from 17 May 2022 until settlement is made.

*Interest is at a rate of 8% simple per year and paid on the amounts specified and from/to the dates stated. HM Revenue & Customs requires Esure to take off tax from this interest. If asked, it must give Mr C a certificate showing how much tax it's taken off.

My final decision

I uphold this complaint. I require esure Insurance Limited to pay the redress set out above at "Putting things right".

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 9 February 2023.

Fiona Robinson
Ombudsman