

The complaint

Mrs H complains about the information given by esure Insurance Limited when she called to claim on her motor insurance policy.

What happened

Mrs H's car was hit by a van so she called esure to claim on her policy. esure accepted the claim and dealt with it under the policy, but also referred Mrs H to an "Accident Management Company" (AMC) to provide a hire car while Mrs H's was repaired.

Mrs H's car was repaired and returned to her, the hire car was also returned to the AMC. A few months later Mrs H was contacted by the AMC as it needed her co-operation in recovering the hire car charges from the other party. Mrs H said this is around £6,000.

The AMC has asked Mrs H to provide information about her circumstances at the time of the accident to enable it to recover the charges. Mrs H has said they've been called repeatedly and "harassed" by the AMC and that it's asking for personal information she shouldn't have to give. Because of this, Mrs H feels esure should resolve these charges with the AMC and so complained to esure.

esure reviewed the complaint and didn't uphold it. It said Mrs H entered into a separate agreement with the AMC and as long as she co-operates with them, she won't be liable for the hire car charges. Mrs H wasn't happy with esure's response and so referred her complaint here. She said esure recommended she used the AMC and weren't clear that she could be liable for the hire car costs and thought esure was covering them. She also said that if esure had told her there was a risk of being liable for these costs, or that other options were available she wouldn't have used the hire car provided by the AMC.

Our investigator looked into the complaint and recommended it be upheld. She found that esure had no records of what was discussed in the call when it referred Mrs H to the AMC. Because of this, she didn't think esure had shown it gave Mrs H sufficient information during the call to make an informed choice about using the AMC. Our investigator recommended esure pay Mrs H £150 for the unnecessary distress and inconvenience caused by esure not giving Mrs H sufficient information to make an informed choice.

esure disagreed with our investigator. It said its standard practice is to let customers know the AMC is a separate company and that if they're unhappy with the AMC they can revert back to having the courtesy car provided under the policy. esure therefore didn't think it was fair to determine this didn't happen for Mrs H just because the call recording wasn't available. esure also said Mrs H signed a separate agreement with the AMC and by upholding this complaint it would disregard the agreement Mrs H signed with the AMC.

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.

When esure referred Mrs H to the AMC it was obliged to provide Mrs H with information that was clear, fair and not misleading, in line with its obligations under *Principle 7* of the FCA Handbook: *Communications with clients* (see *PRIN 2.1R The Principles*) and *ICOBS 2.2.2R (Clear, fair and not misleading rule)*. In the circumstances of this case, this means that when Mrs H contacted esure to tell it about her ‘non-fault’ claim for damage to her car, esure ought to have provided her with clear information about her options, so she could decide how best to proceed.

Where evidence is incomplete, inconclusive, or contradictory, I reach my decision about the merits of the complaint on the balance of probabilities. In other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

In this case esure has said what its call handlers do as standard practice. It’s explained this means explaining that the AMC is an independent company and that if a customer is unhappy with the AMC, they can revert back to esure and obtain a courtesy car under the policy. While I agree it’s good to make these things clear, I’m not satisfied it means that is what happened here, just because it is standard practice.

While it’s not clear if esure met its standard practice when referring Mrs H to the AMC. When considering all the evidence I’m not persuaded esure has shown it most likely gave Mrs H clear, fair and not misleading information about using the AMC, to enable her to make an informed choice. I say this because Mrs H has said she was recommended to use the AMC and that it wasn’t clear that she could be liable for the hire car costs. She also said she thought esure was covering them and said that if esure had told her there was a risk of being liable for these costs, she wouldn’t have signed up with the AMC. So while esure may have made it clear the AMC was a separate company, I’m not satisfied this means esure gave Mrs H sufficient information to make an informed choice as she wasn’t aware she “could” be liable for the hire car costs.

I’ve therefore looked at the impact the poor referral has had on Mrs H. This includes considering that Mrs H entered into an agreement with the AMC. However even if the agreement was clearly explained to Mrs H by the AMC, I’m not satisfied that removes all responsibility from esure to meet its requirements.

As I’m not persuaded esure has shown it most likely gave Mrs H the information she needed to make an informed choice, I’m satisfied this has caused her unnecessary distress and inconvenience. I say this because Mrs H said she only became aware she could be liable for the hire car costs when the AMC contacted her about recovering them. And while esure said she won’t be liable for them if she cooperates, this doesn’t change the fact Mrs H has suffered the additional distress and inconvenience of having to cooperate with the AMC. I’m also satisfied by Mrs H’s testimony that she wouldn’t have used the AMC if she’d known this, therefore the fair and reasonable outcome is for esure to compensate her for this. I’m satisfied £150 is fair and reasonable compensation for the distress and inconvenience caused by esure not giving Mrs H sufficient information to make an informed choice on whether to be referred to the AMC.

My final decision

For the reasons explained above, my final decision is that I uphold this complaint. I require esure Insurance Limited to pay Mrs H £150 for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 19 June 2023.

Alex Newman
Ombudsman