

The complaint

Mr and Mrs L complain about the settlement for an insurance claim by esure Insurance Limited.

What happened

Mr and Mrs L discovered water below flooring and their underfloor heating stopped working. A claim was made in late October 2020 and esure dealt with the claim in so far as sending out loss adjusters and eventually making a cash settlement.

It became apparent that drains and pipes falling under the responsibility of a local authority and a utility company were the cause of water escaping into Mr and Mrs L's property. They were responsible for fixing the cause and so works at Mr and Mrs Ls were effectively on hold until the cause of the water leaks had been repaired.

It appears the cause was repaired by mid-March 2021 but in November 2021 it was found that problems in local authority drains remained an issue and causing elevated moisture levels in Mr and Mrs L's home. It's at this point that esure, on the advice of its loss adjusters, decided to offer a cash settlement on the basis that further repairs couldn't occur while moisture issues persisted, which Mr and Mrs L were unhappy with. And new leaks were found requiring a separate claim to be pursued.

In short, at the time Mr and Mrs L brought their complaint they had spent over £10,500 more than the settlement esure had paid them. And they felt esure should pay them this money.

One of our investigators explained a cash settlement was reasonable as it wasn't possible for esure to complete repairs and the policy terms permitted this. She thought esure should have considered a disturbance allowance as there were no cooking and washing facilities. She recommended that esure review the outstanding costs in line with the policy terms and evidence of payment from Mr and Mrs L. She said esure should add 8% interest on any refunded amounts from the date paid and compensate Mr and Mrs L £200 for costs not being considered earlier and the distress and inconvenience this had caused.

esure disagreed with the investigator saying it had paid alternative accommodation and disturbance allowance costs and had adequately considered all costs incurred while out of the property.

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.

The crux of what is outstanding concerns costs Mr and Mrs L have detailed in a spreadsheet and to which esure has based its response. The outstanding costs were set out as follows:

Item	Expense Detail	Mr and Mrs L say	esure's comments
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		outstanding	
A	Council tax Oct – Jan	£610.34	Mr and Mrs L remain responsible and can ask Council to apply a discount
B	Rent WR Jan – May	£2,850	Have paid the maximum for Accommodation
C	Council tax Jan – May	£800	Mr and Mrs L remain responsible and can ask Council to apply a discount
D	Total removal costs (£3,720)	£180	Costs were agreed and have paid what we can for 'AA'
E	Gas SR	£400.46	Need to know what was paid normally and how much out of pocket
F	Electric SR	£540.39	Need to know what was paid normally and how much out of pocket
G	Drying costs (£1,546.78)	£753.78	Paid settlement based on amount recommended by its contractor
H	Remedial work (£17,523.60)	£4,202.56	Paid settlement based on amount recommended by its contractor
I	Floor sanding/staining	TBC	Need evidence of cost
J	Wi-Fi Dongle	£49.99	Need to know what was paid normally and how much out of pocket
K	2 nd Wi-Fi Dongle contract	£191.88	Need to know what was paid normally and how much out of pocket
L	Baby Belling cooker	£65.00	Not sure what this was

The starting point for my consideration is ICOBs 8 which, in summary, requires esure to settle claims promptly and fairly and includes providing reasonable guidance to help Mr and Mrs L make a claim and appropriate information on its progress.

The policy permits cash settlement and as there appeared to be ongoing leak issues from local authority pipes, I can understand why esure wanted to cash settle. esure couldn't repair those pipes and giving cash would enable Mr and Mrs L to start putting things right, although that might not be considered wise in circumstances where repairs could quickly become compromised by ongoing water ingress that Mr and Mrs L had no control over. However, in

circumstances where esure isn't repairing the damage itself and chooses to make a cash settlement then I'm satisfied it's fair that esure pays the actual cost rather than any discounted rate it may usually benefit from.

The specific items

On the repair works done at *item H*, the onus here lies with Mr and Mrs L to provide evidence of the cost incurred for the insured work such that esure can make a refund of the cost paid. Once that information has been provided esure will need to consider the information and pay for insured works.

While the insured home was uninhabitable the policy covers 'Alternative Accommodation and rent' (AA). esure's liability is to pay this for the period until the insured works are complete. As esure wasn't conducting the repairs it paid based on how long it thought the repairs would take. But as it wasn't taking responsibility to provide the repairers, I'm satisfied it should pay for how long it took. But this is subject to their being no unreasonable delays, such as Mr and Mrs L's contractors not turning up on site. The relevant cost here is *item B* – the policy limit for AA is £75,000 and that limit has not been used in this claim. esure will need to assess what a reasonable time was for being out of the home such that insured works could be completed to make the insured home habitable. They'll need to factor in what occurred and any impact of the availability of materials or other extraneous factors that reasonable prevented works continuing in the expected timeline.

In terms of Council tax and utilities (e.g. gas, electricity, broadband etc *Items A, C, E, F, J and K*) the policy as far as I can see is silent. I think it's reasonable to cover the additional amounts Mr and Mrs L are paying over and above what they ordinarily would in keeping one home. But again, they bear responsibility to demonstrate how much they're out of pocket. It's likely that utility consumption amounts in their insured home are lower than they ordinarily would be if not living there. So, they're not simply entitled to receive the full costs of what they pay, rather they must show what they ordinarily would have paid and claim the difference. And while esure thinks that the Council will waive or discount tax on a second property, there's no information to support that. It may be a discretion but unless esure can demonstrate that Mr and Mrs L are in fact entitled then esure will need to pay for the Council tax Mr and Mrs L paid for the AA properties. Mr and Mrs L will need to provide evidence of payment across all properties to demonstrate they didn't receive a discount on the insured home.

I don't think it's fair that esure simply reduces drying costs at *Item G* to its contractor's estimate. If esure had been drying the property, then it would pay until dry and that's what it should do here as it chose to pay a cash settlement. It's appropriate to recognise that the property was declared dry in April 2021 and so it's the drying costs up to this point that esure should pay. Mr and Mrs L will need to provide esure of evidence of the costs up to this point. I appreciate there were further issues with water ingress later in 2021 but this is the subject of a separate claim and indeed potential litigation with the Council. These are separate issues to the ones Mr and Mrs L originally brought to us.

On moving costs at *Item D*, it seems the only issue is the correct amount that should be paid. Mr and Mrs L should provide esure with evidence of the total costs paid, which they claim are £3,720, and esure should pay this. I note the outstanding amount is said to be £180.

Mr and Mrs L will need to provide esure with evidence of the cost of sanding and staining the floor at *Item I*. If they haven't yet had this done, and so haven't incurred the cost yet, then they should provide a detailed estimate to esure such that the parties can agree a settlement based on the estimate.

Finally, *Item L* was something Mr and Mrs L apparently purchased for the second AA property which didn't have cooking facilities. Provided Mr and Mrs L provide evidence of the purchase to esure I think it's fair that this sum is refunded.

The situation was something that understandably caused Mr and Mrs L distress and inconvenience. Repairing the leak was not something under esure's control given that lay with the local Council. From looking at everything esure has sent I can see there were clear challenges in Mr and Mrs L getting sufficient information and explanation from esure's agents about the detail and progress of the claim. And I don't think esure has fairly reviewed the costs of the claim Mr and Mrs L have incurred over and above the cash settlement. This could and should have been reviewed more fully and earlier such that costs related to the claim could be paid in full and at the earliest point. So, I think £200 is a fair reflection.

Putting things right

1. esure needs to review all costs at items A to L above taking into account the findings in this decision and evidence that Mr and Mrs L provide to substantiate their losses:
 - a. esure must add simple interest at 8% per year on any amounts it pays from the date Mr and Mrs L paid the cost until the date esure sends its payment
2. esure must pay £200 compensation for distress and inconvenience:
 - a. esure must pay this amount within 28 days of the date on which we advise it that Mr and Mrs L have accepted this decision. If esure does not, then it must add simple interest at 8% per year from the date of this decision to the date it sends payment.

My final decision

I uphold this complaint and require esure Insurance Limited to put things right in the way detailed above 'Putting things right'.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L and Mrs L to accept or reject my decision before 25 May 2023.

Sean Hamilton
Ombudsman