

## **The complaint**

Mr S complains about the settlement that esure Insurance Services paid him under his motor insurance policy for the loss of his car.

## **What happened**

Mr S's car was hit by another car whilst it was parked and unattended. esure said the car was a total loss. And it offered Mr S £7,612, less a deduction of £612 for pre-existing damage and MOT advisories, in settlement. But Mr S thought this was unfair as the car had a new engine, the pre-existing damage was cosmetic, and the car had passed its MOT.

Our Investigator recommended that the complaint should be upheld. She didn't think the car's new engine would increase its overall valuation. She thought esure's deduction was unfair as the car was seven year's old and wear and tear was to be expected. Also, the MOT said the advisories were still within legal limits and esure's engineer confirmed the tyres were good. And she thought esure's valuation of the car was too low and it should increase this by £451. She recommended that esure should pay Mr S £1,063 more, with interest, and £150 compensation for his trouble and upset.

esure replied that it agreed to pay Mr S the deduction for pre-accident damage. But it thought the increase in valuation was unfair as it had followed our process at the time it calculated it. esure asked for an Ombudsman's review, so the complaint has come to me for a final 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.

esure has already accepted that it was unfair for it to deduct £612 from Mr S's settlement for the pre-accident damage and MOT advisories. So I won't consider that aspect of Mr S's complaint further. Mr S has been without his money for some time, so I think it's fair and reasonable for esure to add interest to this amount from the date it paid Mr S his initial settlement until the date of payment.

But esure thinks it's unfair for us to expect it to increase its valuation of the car as it says it was made correctly at the time in keeping with our approach. I can see that the policy provides for the car's market value in the case of its total loss.

This service's approach to car valuations is that we don't provide valuations for cars but look to see whether the insurer's offer is reasonable. In assessing whether a reasonable offer has been made, we obtain valuations from motor-trade guides.

These are used for valuing second hand vehicles. We find these guides to be particularly persuasive, largely because their valuations are based on nationwide research and likely sales figures. The guides also take into account regional variations. We also take all other available evidence into account, for example, engineer's reports.

Mr S provided adverts for cars similar to his and he also thought a new engine would increase its value. But we don't find advertisements particularly persuasive as these are

essentially asking prices and aren't selling prices. It's for this reason that the trade guides are used as they provide evidence of likely retail selling prices. And, as the Investigator has explained, the car's market value is considered as a whole and a new engine wouldn't necessarily make a difference as it's essentially maintenance.

I can see that esure, and our Investigator, looked for cars of the same make, model, age, mileage, condition and specification as Mr S's car at the date of its loss in four of the trade guides we use. esure discounted the highest valuation it found, £8,652, because this was out of step with the others. And then it took an average of the remaining three valuations that were closest together to arrive at £7,612. The policy excess was waived.

I can see that the valuation discounted by esure was about £800 higher than the next highest and £1,000 higher than the average of those closest together. We think it's often reasonable to ignore a valuation that is significantly higher or lower than the range of the other valuations. But I don't think this would lead to a fair outcome on this occasion.

I'll explain why I think this. Our Investigator found a valuation for Mr S's car in a fifth motor trade guide that we now use. This was £8,828. esure thought it was unfair for us to consider this guide's value as it had calculated Mr S's settlement in keeping with our approach at the time.

But our approach is that when a guide is out of line with the others, we don't automatically discount it. There may be other evidence provided (such as adverts or independent valuations etc) which supports the out of line guide. And so I think it's fair and reasonable to consider this latest valuation as the information is available and this will lead to a fairer estimate of Mr S's car's market value.

This means that the valuation esure discounted wasn't an outlier. And so I think a fair approach would be to take an average of all five valuations. This gives £8,063 and so I'm satisfied that it would be reasonable for esure to increase its valuation to this amount and pay Mr S £451 more in settlement of his claim. And, as Mr S has been without his money, I think esure should add interest to this amount.

Mr S has been caused trouble and upset by esure's unfair settlement. He has had to repay his finance and borrow further to replace his car. Our Investigator recommended that esure should pay Mr S £150 compensation for this impact. I think that's in keeping with our published guidance and so it's fair and reasonable.

### **Putting things right**

I require esure Insurance Services to do the following:

1. Pay Mr S a further £1,063 in settlement of his claim, adding interest to this amount at the rate of 8% simple per annum from the date of the initial payment to the date of final settlement†.
2. Pay Mr S £150 compensation for the distress and inconvenience caused by its handling of his claim.

†If esure considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr S how much it's taken off. It should also give Mr S a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

### **My final decision**

For the reasons given above, my final decision is that I uphold this complaint. I require esure Insurance Services to carry out the redress set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 2 March 2023.

Phillip Berechree  
**Ombudsman**