

## The complaint

Mr H and Mr B have complained that, after Mr B's car was deemed a total loss, esure Insurance Limited settled the claim for only the amount outstanding on finance, rather than the market value of the car.

## What happened

In summer 2021, Mr B bought a new car on a personal contract plan. The cash price for the car was £30,512, with £28,912 being financed on credit. Mr B bought an insurance policy from esure, on which there was a compulsory excess of £100 and a voluntary excess of an additional £500. Mr H was a named driver on the policy, with an additional excess of £400.

In October 2021, Mr H was involved in an accident. So he made a claim on the policy. Esure determined the car was a total loss, following which they paid £27,444.35 to settle the outstanding finance.

Mr B and Mr H complained that esure should have paid the market value for the car, with the amount over and above what was needed to settle the outstanding finance paid to Mr B. And they complained that they'd been charged the excess on the policy, even though it was a non-fault claim. Esure responded by referring Mr H and Mr B to the policy term, which states:

*"If you have acquired your car through lease or contract hire, we will pay the lease or contract hire company either the market value of the car, or the amount required to settle the agreement, whichever is less".*

Mr B and Mr H weren't satisfied with esure's response and brought their complaint to our service. Our investigator considered it and concluded esure needed to do more to resolve it. They said esure should recalculate the settlement, based on the market value of the car at the date of loss (less any policy excess due) and pay any amount above the amount required to settle the finance directly to Mr B.

And they said esure should pay interest on this amount from the date the finance was settled until the date of payment. But they confirmed esure was entitled to reduce the payment by the policy excess – although they said esure should confirm whether they were seeking to recover this from the third party.

I agreed with the investigator's view. But I had to gather more information to come to that conclusion. So – to give the parties a chance to comment on that – I made a provisional decision.

I provisionally decided that it was fair to deduct the policy excess from the settlement. I noted that esure are still trying to recover that from the third party. And I'd expect them to keep Mr B and Mr H informed about this.

But I explained that, in total loss cases, we usually expect a business to pay the policyholder the market value of their car. If there's outstanding finance, we'd expect the business to

settle that, and pay any remaining balance to the policyholder. Esure didn't do that. I provisionally decided that wasn't fair.

My enquiries established the outstanding finance at the time of the accident was £27,444.35. Esure said the market value at the time was £29,533.12. But my enquiries suggested this was too low. An average of four valuations I got was £34,112. So I said this was the market value which should be used.

On that basis, I provisionally decided esure should pay Mr B the difference between £34,112 and the amount they paid to settle the finance. That comes to £6,667.65. And I said they should pay him simple interest on this amount, at the rate of 8% per annum, calculated from the date they paid the settlement to the finance company until the date they pay Mr B.

Mr B and Mr H accepted my provisional decision. Esure didn't make any specific comments on its contents. But they've said they'll pay Mr B in line with my 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 that, I'm upholding Mr B's and Mr H's complaint for the reasons which I set out in my provisional decision and which I've summarised above.

### **My final decision**

For the reasons I've explained, I'm upholding Mr B's and Mr H's complaint about esure Insurance Limited and directing esure to pay Mr B:

- the sum of £6,667.65 (less any excess due)
- interest, calculated at the rate of 8% per annum for the period starting at the date they settled the outstanding finance until they pay Mr B.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B and Mr H to accept or reject my decision before 30 May 2023.

Helen Stacey  
**Ombudsman**