

The complaint

Mr N complains esure Insurance Limited (esure) caused delays after he made a claim on his motor insurance policy, causing him to have to pay increased premiums on his new policy as the claim is still open.

What happened

In November 2021 Mr N's car was hit by a third-party, whilst unattended, causing damage to the front of it. His car was parked at the time and the third-party did not stop. Two witnesses who saw the incident said the third-party was a courier delivery van and it had reversed into his car.

Mr N made a claim on his motor insurance policy. His car was repaired by esure's authorised repairer and returned to him.

esure wrote to the third-party courier company in December 2021. It gave the details of the allegations made about its driver hitting Mr N's car. It did not get a response.

esure have still not managed to obtain a response from the third-party courier company in relation to the allegations. It has said it is now pursuing a request to obtain the personal details of the driver of the delivery van and once received it will consider issuing legal proceedings to recover its costs.

The claim remains open on Mr N's insurance record.

In November 2022 esure said it could have been more proactive in pursuing the third-party to recover its costs and it agreed it had failed to call Mr N back when he requested it to. It paid him £150 for the shortfall in service.

As Mr N was not happy with esure, he brought the complaint to our service.

Our investigator upheld the complaint. They looked into the case and said esure should be more proactive in chasing the third-party for the information it required, they thought an increased compensation of £250 should be paid to Mr N.

As esure is unhappy with our investigator's view the complaint has been brought to me for a final decision to be made.

What I provisionally said

In this case I saw that esure have not yet been able to obtain the details it requires to try and recover the cost of the claim from the third-party. Nor has it yet obtained any details of who was driving the third-party vehicle. The claim is currently recorded as an open claim whilst it continues to pursue the third-party.

An 'open' claim (before a claim has been settled) is recorded as a fault claim. And although it is fair for an open claim to be recorded as fault, I would expect the insurer not to unnecessarily delay closing the claim.

In this case esure said its recovery team have been pursuing the third-party to obtain recovery of its costs to repair Mr N's car. I saw it first wrote to the courier company in November 2021. It obtained an email address for the courier company and in March 2022, sent an email with its allegations. In August 2022 and October 2022 it emailed again to request its outlay for the costs of repairing Mr N's car.

esure said it has not had a response and said this is out with its control.

I saw esure agreed it could have been more proactive in its pursuit of the third-party. It said as the third-party insurer had not responded to it, it submitted a request to obtain the name and address of the driver of the vehicle to be disclosed. It said once this information is received, it would consider issuing legal proceedings to recover its costs. It said there is no timeframe on this process, and it cannot issue legal proceedings without the personal details of the insured.

Mr N said due to the open claim this has meant an increase in the cost of his insurance premium. The open claim means it's treated as a 'fault' claim. If esure closes it now, when it has not recouped its losses from the third-party insurer, it would be closed and recorded as a fault claim. This means there is no adverse financial impact on Mr N having an open claim at the moment.

Whilst this claim is kept open this means esure are still looking into it and if it gets a response from the third-party there is a chance of it being closed potentially as non-fault. And as Mr N is still insured with esure, I saw it has said if the claim is closed as non-fault, it would re-rate his policies and refund anything he'd paid for when his premium was rated with a fault/open claim.

Whilst I accept this claim has been open for more than one year, the length of time a claim can be left open depends on the accident circumstances. In this case the third-party are not being responsive to requests for information, so esure have now requested the personal details of the driver and are currently pursuing this route.

I think esure could have been more proactive in pursuing the third party. esure itself has said this in its response to Mr N and paid him £150 for the shortfall in service.

After our investigator recommended the compensation was increased to £250 due to esure not being proactive in chasing the third-party, I saw that Mr N accepted this. I saw esure offered to increase its offer to £200 but not £250.

Although I understand Mr N will be disappointed I think £200 is a fair offer for the lack of proactive pursuing of the third party in these circumstances.

Therefore, I intend to uphold Mr N's complaint and intend to require esure to pay a total of £200 to Mr N.

Responses to my provisional decision

Mr N responded to say he accepted my provisional decision.

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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.

As both Mr N and esure accepted my provisional decision, I maintain my provisional decision and I uphold Mrs G's complaint.

My final decision

For the reasons I have given I uphold this complaint.

I require esure Insurance Limited to pay Mr N a total of £200 compensation less the £150 already paid.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 11 October 2023.

Sally-Ann Harding
Ombudsman