

## **The complaint**

Ms W complains esure Insurance Limited didn't treat her fairly when handling two claims against her motor insurance policy.

## **What happened**

In July 2022 Ms W asked our Service to investigate her complaint against esure. The complaint was that esure had handled two claims against her motor insurance unfairly. She said esure had held her at fault for a claim for damage caused by a car wash when it hadn't been her fault (first claim). And she said it had accepted a claim from her neighbour for an accident which hadn't happened (second claim).

Our Service accepted the complaint and asked esure for its file on 27 July 2023. We didn't receive a reply. We asked again on 25 August 2023 and 4 September 2023, and didn't receive any reply. On 11 September 2023 we told esure if we didn't receive a reply, we would consider the complaint based on the information available. Again, there was no reply, so our Investigator issued her outcome on 25 September 2023. She said, in summary:

- esure had found Ms E at fault for the first claim, while liability for the second claim was still ongoing. So she would make a finding on how fairly the first claim had been handled, but not the second;
- She only had the power to consider complaint points up the point esure issued its final response (May 2023) so she couldn't comment on anything after that; and
- She wasn't persuaded, based on the limited information available to her, that esure had acted fairly in holding Ms W at fault for the first claim. To put things right she said esure should:
  - o change how it recorded the first claim from fault to non-fault;
  - o reinstate any no claims bonus impacted by the first claim;
  - o calculate any difference in premium that Ms W has paid due to the first claim being recorded as fault and refund this to her; and
  - o pay Ms W £200 compensation for the distress and inconvenience caused.

Ms W didn't accept the Investigator's recommendation. This was in the main because of a misunderstanding over what the Investigator could and couldn't consider, which I understand Ms W is now aware of and has started a new complaint with esure. Ms W was also disappointed with the amount of compensation the Investigator thought was fair.

esure didn't respond to the Investigator's recommendation, despite follow-up emails asking for a reply on 9 October 2023 and 17 October 2023. On 31 October 2023 the Investigator told esure as it hadn't replied, the complaint would be referred to an Ombudsman for a final decision. esure didn't reply and has not replied in the meantime.

## **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 set out by the Investigator, the scope of this complaint is limited to esure's handling of the first claim and matters up to esure's final response, issued in May 2023. While I accept this is disappointing for Ms W, our Service does not have a free hand – there are rules and procedures which must be followed.

In the absence of any evidence or arguments from esure, I see no compelling reason to interfere with the Investigator's recommendation, or her reasons for it. While I recognise Ms W considers more compensation appropriate, I'm satisfied £200 fairly reflects the distress and inconvenience esure caused her that is within the scope of this complaint.

### **My final decision**

I uphold this complaint and require esure Insurance Limited to:

1. change how it recorded the first claim from fault to non-fault;
2. reinstate any no claims bonus impacted by the first claim;
3. calculate any difference in premium that Ms W has paid due to the first claim being recorded as fault and refund this to her; and
4. pay Ms W £200 compensation for the distress and inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms W to accept or reject my decision before 17 April 2024.

James Langford  
**Ombudsman**