

## **The complaint**

Miss M complains about the handling of a claim under her motor insurance policy with esure Insurance Limited (esure).

References to esure in this decision include their agents.

## **What happened**

In August 2022 Miss M's vehicle was hit by another vehicle while parked and suffered damage. She told esure a vehicle parked next to her had hit her vehicle when leaving, and she provided CCTV evidence to esure. The police also provided her with the insurance details of the third party, which she also provided to esure.

However, esure held the accident to be a fault claim against Miss M and she had to pay the policy excess of £600. Miss M was also unhappy at the length of time taken to assess the claim and so she complained to esure (February 2023).

In their final response issued the same month, esure apologised for the service they'd provided to Miss M, saying they should have noted the information provided by Miss M and there shouldn't have been delays in assessing the claim. Their claims team were assessing the information and the claim. Given the inconvenience Miss M had suffered, esure awarded £200 compensation.

esure subsequently closed the claim, recording it as a fault claim against Miss M. As such, the £600 excess remained and wasn't refunded (Miss M said she's had a conversation with esure in which she was told her excess would be refunded). Unhappy at this outcome, Miss M complained to this service (July 2023). She'd also had to renew her policy, at an increased premium, because of the fault claim recorded against her.

esure didn't respond to our investigator's request for their business file on Miss M's claim and complaint, so our investigator issued an initial view based on the evidence and information provided by Miss M. Based on the evidence and information provided, he wasn't persuaded esure had acted fairly. Miss M was told over the phone by esure in July 2023 that her claim had been closed and recorded as a fault claim against her. But esure hadn't explained why they'd done so and hadn't responded to Miss M's further complaint in July 2023. The investigator hadn't seen enough evidence to conclude whether esure had acted fairly in closing the claim and recording it as a fault claim against Miss M. He thought esure should explain their actions and reasons for closing the claim and recording it as a fault claim against Miss M. They should also pay her a further £200 in compensation for their poor communication, in addition to the £200 they'd previously awarded.

esure didn't respond to the investigator's view by the date requested, so the complaint has been passed to me to consider.

## **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.

My role here is to decide whether esure have acted fairly towards Miss M. As esure didn't provide their case or complaint file or other evidence or information, I've considered the case based on the evidence and information provided by Miss M.

The key issue in Miss M's complaint is whether esure have acted fairly in closing her claim and recording it as a fault claim against Miss M. Miss M says she provided esure with CCTV footage of the incident in which a vehicle parked next to her in a car park damaged her vehicle when moving off. She also says the police have provided details of the third party vehicle and insurance. As a fault claim recorded against her, she had to pay the £600 policy excess and the subsequent renewal of the policy, including a higher premium.

As esure haven't responded to our investigator's request for their claim and complaint files, or otherwise set out how they reached their decision to close the claim and record it as a fault claim against Miss M, it's not possible to conclude whether their actions were fair and reasonable. Generally, a claim will be recorded as a fault claim against a policyholder where an insurer isn't able to recover all its costs from the third party insurer. In that situation, a policyholder will also be liable to pay the policy excess under their policy. In the absence of any evidence or information from esure, it isn't possible to assess the circumstances of the claim and why – assuming it's the case – esure weren't able to recover all the costs of the claim from any third party insurer.

However, I don't think it's fair or reasonable that esure haven't told Miss M why they reached these decisions, given what she's said about providing CCTV footage of the incident, which she says shows the incident and the third party vehicle damaging her parked vehicle when it moved off.

Given these conclusions, I've considered what I think esure need to do to put things right.

As they haven't acted fairly or reasonably in telling Miss M why they've closed the claim and recorded it as a fault claim against Miss M, then they should explain how and why they've closed the claim and recorded it as a fault claim against Miss M – given what she's said about providing CCTV evidence of the incident, which she says shows the third party vehicle damaging her parked vehicle when moving off. And providing them with details of the third party and their insurer.

I also think the lack of communication by esure will have caused Miss M distress and inconvenience, particularly given how long this case has taken from the date of the incident. esure initially awarded £200 compensation. But given what's happened and my conclusions above, I've concluded a further £200 in compensation for Distress and Inconvenience would be fair and reasonable in all the circumstances of this case.

### **My final decision**

For the reasons set out above, it's my final decision to uphold Miss M's complaint. I require esure Insurance Limited to:

- Explain how and why they've closed Miss M's claim and recorded it as a fault claim against her.
- Pay Miss M a further £200 in compensation for distress and inconvenience.

esure Insurance Limited must pay the compensation within 28 days of the date on which we tell them Miss M accepts my final decision. If they pay later than this they must also pay

interest on the compensation from the date of my final decision to the date of payment at 8% a year simple.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 7 February 2024.

Paul King  
**Ombudsman**