

## **The complaint**

Miss O complains about esure Insurance Limited (“EIL”) and the service they provided after she made a claim on her motor insurance policy.

## **What happened**

The circumstances of the claim and complaint are well known to both parties. So, I don’t intend to list them in detail. But to summarise, Miss O was involved in what she feels was a non-fault road traffic accident in September 2022. So, she contacted EIL to make a claim on her insurance policy, making it reasonably clear she felt the costs incurred repairing her car should be claimed back from the third-party insurer (“TPI”).

EIL accepted Miss O’s claim. But Miss O was unhappy with the way EIL progressed her claim, and the way they communicated with her. She was also unhappy that the claim remained open at the time of her renewal, and the increase this caused to her premiums. So, she raised a complaint.

EIL responded to Miss O’s complaint and upheld it in part. They accepted they could’ve communicated with Miss O more effectively. And, that the claim had taken some time to progress. But they thought much of the delay was caused by the TPI failing to respond to their requests, rather than any error they made. And, because the claim remained open, they explained why this impacted Miss O’s renewal premium and why they didn’t think it had been calculated unfairly. So, they paid Miss O £100 to recognise any distress and inconvenience she was caused. Miss O remained unhappy with this response, so she referred her complaint to us.

Our investigator looked into the complaint and upheld it. They didn’t think EIL should be directed to cover the additional premiums Miss O is paying to her new insurer, as they didn’t think they could say EIL acting fairly would’ve resulted in the claim being closed as non-fault before her original policy ended. But they did think EIL had failed to respond to Miss O’s contact appropriately, and that there were times where they felt EIL could’ve been proactive during the claim process, which may have sped up the claim’s progression. So, considering the above, they didn’t think the £100 EIL paid Miss O fairly compensated her for the unnecessary distress and inconvenience she’d been caused. So, they thought EIL should pay Miss O a further £150, taking the total compensatory amount to £250 overall.

Miss O accepted this recommendation. But EIL didn’t. They thought the additional £150 was excessive, reiterating their belief the majority of the delays in the claim process were caused by the TPI, rather than themselves. As EIL didn’t agree, the complaint has been passed to me for a 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 so, I’m upholding the complaint for broadly the same reasons as the

investigator. I've focused my comments on what I think is relevant. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

I note in our investigator's recommendation, they explained our service wouldn't look to direct EIL to cover the additional monthly premium amount Miss O thinks she's paying to her new insurer, due to an open claim being recorded against her. I note Miss O accepted our investigators view and recommendation. And EIL didn't raise any dispute to this finding either. So, as I'm satisfied the conclusion falls in line with our service's approach, I won't be commenting on this aspect of the complaint any further.

And I note in EIL's final response to Miss O's complaint, they accepted their service could've been improved, while also accepting the claim could've been progressed in a timelier manner than it had been. So again, I don't think these complaint points are in dispute, as it's already accepted that EIL could've done more. So, I won't be discussing the merits of these issues. Instead, for efficiency and to be concise, I've focused on what does remain in dispute, which centres around what EIL should do to put things right.

### **Putting things right**

When thinking about what EIL should do to put things right, any direction or award I make is intended to place Miss O back in the position she would've been in, had EIL acted fairly in the first place.

In this situation, had EIL acted fairly, I think they would've ensured they responded to Miss O's communication in a timelier manner. And had they done so, I think this would've prevented Miss O from needing to send EIL multiple e-mails asking for updates on her claim's situation. And, while I haven't seen evidence of all the calls Miss O has made, I note it isn't in dispute that Miss O did also call EIL on several occasions. And I think these calls are substantiated by the timelines she provided in her email correspondence. So, I do think EIL's failure to communicate with Miss O effectively would've inconvenienced Miss O, and that this inconvenience would've caused some emotional distress. And I must also take into consideration this lack of response happened on more than one occasion.

And while I do note EIL's stance regarding the progression of the claim, and how this was impacted by the TPI's failure to respond to them, which I don't doubt, I do think there were some avoidable delays caused by EIL. Specifically, I've seen in February 2023 Miss O told EIL she wished for them to start proceedings against the TPI, as she felt liability lay with the third-party. Yet two months later, EIL returned to Miss O to ask if she could confirm she wished for them to take this action. So, I do think EIL could've continued to progress Miss O's claim during this time, as she'd already made clear they had her approval to do so. And while EIL may have done some work towards this during this time, I've seen no evidence to show what work was completed. So, on the balance of probability, considering EIL appeared not to know they had Miss O's approval, I think it's reasonable for me to assume no work was done. So, I think the claim will have been delayed by around two months unnecessarily.

So, when considering the above, and the fact I've seen Miss O ask for timescales and expectations from EIL on several occasions without response, I'm satisfied there was an impact on Miss O that I don't think has been appropriately compensated for by the £100 EIL have already paid. So, I do think this payment needs to be increased.

Our investigator recommended EIL pay an additional £150 to take the total compensatory amount to £250, which Miss O accepted. And I think this payment is a fair one, that falls in line with our services approach and what I would've directed, had it not already been made.

I think it is significant enough to recognise the fact that EIL failed to respond to Miss O on several occasions, and the impact this would've had both emotionally, and in terms of the inconvenience it caused. And I think it fairly reflects the fact the claim has taken some time to progress, with some of the delays being the fault of EIL.

But I also think it is an appropriate level that does note the fact some of the delays were caused by the TPI not replying to EIL. And, that EIL did take some steps, albeit not as proactively as I'd expect, to ensure the claim was being settled in the way Miss O wanted, considering her strong views regarding liability. So, I'm directing EIL to pay Miss O an additional £150.

### **My final decision**

For the reasons outlined above, I uphold Miss O's complaint and I direct EIL to take the following action:

- Pay Miss O an additional £150 to recognise the distress and inconvenience she's been caused during the claim process.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss O to accept or reject my decision before 14 February 2024.

Josh Haskey  
**Ombudsman**