

The complaint

Mrs G complains that Esure Insurance Limited (Esure) declined her claim under her home insurance policy.

What happened

Mrs G contacted Esure to make a claim as she said that a steel mug had fallen and cracked a floor tile. An engineer was instructed to assess the damage but said that the repair was likely to be too difficult to complete. And he was unable to guarantee how long the repair would last.

Esure then sent a loss adjuster to carry out a further assessment of the damage caused. Mrs G felt that the loss adjuster was unprofessional, not least as he turned up late and she said he *'grilled'* her for information. She also said that he recorded everything, which she believed was a breach of GDPR. So, she complained to Esure.

Following the complaint, Esure declined her claim based on the loss adjuster's assessment that the damage was due to wear and tear and poor workmanship. Mrs G was unhappy with the outcome and raised a complaint.

In its final response, Esure accepted that there had been a delay in responding to her complaint. It apologised and awarded £50 compensation for the trouble and upset caused. It accepted what Mrs G had said about the loss adjuster's attitude and offered £100 compensation for the trouble and upset this caused. It explained why recordings were made and that Mrs G's privacy and GDPR were not breached. Finally, it said that Mrs G's claim was correctly declined, as her policy did not cover items that were damaged due to wear and tear. Or for poor workmanship.

Mrs G remained unhappy with the outcome, so as she had been given her referral rights, she referred a complaint to our service.

One of our investigators considered the complaint and didn't think it should be upheld. He thought that Esure ought to have managed the claim and complaint much better than it did. He said that the compensation paid was reasonable. However, the explanation it gave for the reason it declined Mrs G's claim was fair and in line with the policy terms and conditions. So, there was nothing further he could reasonably ask Esure to do.

Esure accepted the view, Mrs G did not. She said that the steel mug had shattered the tiles. She appreciated that wear and tear could occur, but said that this wouldn't have cracked the tiles. She said that a contractor who attended and saw the tiles had advised her that due to the tiles shattering this would have weakened other tiles. She confirmed that she was only asking for two tiles to be replaced, under the accidental damage provision of her policy. She reiterated that she was unhappy with the poor communication she experienced from Esure. And was still concerned about a breach of GDPR. So, she asked for a decision from an ombudsman.

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 won't uphold this complaint, for much the same reasons as our investigator. I understand that this might be a disappointment to Mrs G, but I hope my findings go some way in explaining why I've reached this decision.

I've considered all the evidence and comments made by both parties. Based on this, I think that the main issues with this complaint are whether the damage was caused by poor workmanship and wear and tear (as Esure has said). Or whether as Mrs G said, caused by an accident. And whether Esure fairly or reasonably declined the claim.

Mrs G said that her tiles shattered because a steel mug fell on them and caused damage. She said that she had spoken to a contractor who advised her that as the tiles had shattered, this had weakened other tiles, which meant that they were prone to damage. She said that if wear and tear had been the cause, she would've expected far more damage to other tiles, especially those in high traffic areas, but they were pristine.

She also questioned whether poor workmanship was to blame, as she said that the only grouting that had become loose were adjacent to the damaged tiles, that she wished to claim for. She questioned that if it was poor workmanship, why hadn't the remaining tiles been affected.

Esure said that the reason it declined Mrs G's claim, was because the account she originally provided was inconsistent with what she told the loss adjuster and what the loss adjuster had found.

Esure said that Mrs G told them that the damage had occurred by a steel mug falling on to the tiles and cracking it. However, when the loss adjuster came, this version had changed, in that she said it was a glass jug that had fallen and caused the damage. The loss adjuster inspected the jug that Mrs G said caused the damage and there was no comparable damage on the jug.

Esure said that this indicated a change in the account. In addition, it had concerns whether a steel mug would have been able to cause the damage, as Mrs G alleged. It relied upon its expert, the loss adjuster who concluded that neither of the causes were likely. He provided several photos of various tiles that were cracked. As well as evidence of grout missing from a few tiles. In his professional opinion, he said this indicated that there had been gradual deterioration as the tiles had been poorly laid. He felt that the cracking on the tiles was because of this.

Mrs G was given the opportunity to provide expert evidence to support her opinion that it was an object that caused the cracking. But none was provided.

Our service are not experts in what is likely to have caused the damage. So, when expert evidence is provided (that isn't refuted by opposing expert evidence) we think that that evidence, is likely to be persuasive. Therefore, in the absence of any expert evidence from Mrs G, I'm persuaded that the damage wasn't caused as Mrs G stated. But was more likely caused because of wear and tear or poor installation.

I've reviewed the policy terms and conditions to see what both parties agreed to. I have looked at the exclusions and the policy states:

“We will not pay for loss, damage or any liability resulting directly or indirectly from: Wear and tear and loss or damage that happens gradually over time.”

Esure relied upon this exclusion clause to decline the claim. It also relied on its expert's opinion as to the cause of the damage. So, I'm unable to agree that Esure was unreasonable or unfair to have applied the terms and conditions of Mrs G's policy, and to have relied on its expert, when it declined Mrs G's claim.

I understand that Mrs G also complained about the professionalism of the loss adjuster who attended, as well as the poor communication. Esure apologised for the distress that Mrs G felt at the loss adjuster's late attendance and the manner in which he questioned her. For this, it paid £100 compensation.

It also accepted that there were some poor communication issues, especially the delay Mrs G experienced after she had raised a complaint. Esure apologised for this error and paid a further £50 compensation for the trouble and upset caused.

I agree that Esure handling of the claim and complaint could've been far better than it was. But it did recognise the errors it made and provided some recompense. I have reviewed our services guidelines on compensation awards. And I think the compensation it offered is broadly in line with our services guidelines. So, I won't be asking Esure to increase this further.

Consequently, having considered the complaint that Mrs G has raised against Esure, I can't agree that it was unreasonable for Esure to apply the policy exclusions and to rely on its expert opinion, when it declined Mrs G's claim. I understand that this is likely to be a disappointment to Mrs G, but I won't be asking Esure to do anything further to resolve this complaint.

My final decision

For the reasons given, I won't uphold Mrs G's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs G to accept or reject my decision before 14 March 2024.

Ayisha Savage
Ombudsman