

## The complaint

Mr W complains about the way esure Insurance Limited handled a claim under his motor insurance policy.

## What happened

- In July 2022, Mr W was involved in a road traffic accident. He made a claim to esure under his motor insurance policy.
- esure arranged for Mr W's car to be repaired and a hire car was provided. However, liability was disputed so the claim was passed to the relevant team to negotiate with the third-party insurers. esure subsequently instructed solicitors to issue court proceedings.
- Mr W complains that he received poor customer service from the liability team. He says he was on hold for 30 to 45 minutes at a time trying to get through to them and was often cut off whilst on hold. In addition, call back requests weren't carried out.
- As the claim remained open, Mr W says his insurance premiums were affected each year as a result despite being told the claim would be a non-fault. He says that it's almost two years later and he's still paying substantially more because of the open claim.
- esure acknowledged its communication and service could've been better and it paid £175 compensation for what went wrong. But it said it is standard practice for an open claim to be classed as fault until it's settled, which will affect Mr W's premiums and no claims discount (NCD). And if it's later settled as non-fault, the NCD would be reinstated and the premiums recalculated.
- Mr W brought his complaint to our service, but our Investigator didn't uphold it. She was satisfied esure's offer of £175 compensation was fair in respect to the poor service. And that if Mr W wants to progress his claim he needs to speak to the solicitors appointed.
- esure has since told us that as Mr W hadn't engaged with the solicitors, it couldn't pursue the liability dispute in court. So the solicitors closed their file as abandoned in December 2023. And as esure couldn't then recover its outlay, it had to record the claim as a fault.
- Mr W argues that esure instructed solicitors without his permission. He says he didn't engage with them because they had conflicting information about the status of his claim, and he didn't want to risk using them if he'd be required to pay the bill. He says the amount of compensation offered doesn't fairly reflect the impact this has had on him as he didn't receive any service from esure, and he wants a refund of his premiums.

- As Mr W didn't accept our Investigator's findings, the complaint has been passed to me to decide.

### **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.

It's not in dispute that esure's customer service wasn't to the standard which Mr W could reasonably expect to receive. esure acknowledged there'd been long waiting times on its phone lines and its communication had been poor. So I don't need to make a finding on whether or not esure did something wrong here – it did. What I need to decide is whether it's done enough to put things right.

Compensation isn't intended to fine or punish a business, it's to recognise the impact the business' actions have had on its customer. So when deciding what amount would be fair, I need to consider how Mr W was affected by the poor communication.

Mr W says he's been financially impacted because his premiums and NCD have been affected due to the open claim. But Mr W would've always had an open claim regardless of the poor service he'd received. I say this because he'd been involved in a car accident and liability was disputed.

I appreciate esure hadn't been as clear as it could've been about how Mr W's premiums and NCD would be affected. But it did later inform him that it's standard practice for an open claim to be classed as fault until its settled otherwise, and I'm satisfied that is this the case. Even if Mr W had been informed of this from the outset, I can't see that anything would've been done differently.

Unfortunately, the claim was open for some time. But I haven't seen any evidence to suggest this was a result of anything esure did or didn't do. My understanding is that solicitors had been instructed to defend Mr W's position on liability, but he didn't engage with them. So esure couldn't progress the claim.

Mr W is concerned because he didn't give esure permission to instruct solicitors. But I don't think it needed to. The policy terms say:

*"We have full discretion in the settlement of your claim and any legal proceedings which may arise and we may take over, defend or settle the claim in your name for our own benefit."*

esure instructed solicitors to deal with the issue of liability. If the case had gone to court, esure would've been seeking recovery of its outlay from the third-party insurers, including the costs it incurred to repair Mr W's car and the hire car it provided. As these are esure's losses – not Mr W's – esure didn't need consent from him to take this action.

As Mr W didn't co-operate with the solicitors – as he's required to do under his policy terms – the solicitors had to abandon the claim. For that reason, esure couldn't recover its outlay and so the claim costs have been recorded against Mr W rather than the third-party driver making this a fault claim.

Mr W tells us he didn't receive any service from esure so he should have his premiums refunded. But I don't agree. From the information available, Mr W's claim was met by the policy and he had his car repaired and a hire car supplied. As he's benefited from the policy

by being insured (which is a legal requirement) and had his claim paid, I'm not persuaded he's entitled to have his policy refunded.

Whilst esure acknowledge there was poor communication, I'm not persuaded the reasons for Mr W's claim not progressing was as a result of esure's actions.

Mr W did receive some poor service when he couldn't get through to the liability team several times on the phone and calls weren't returned. I've no doubt this would've caused him some distress and inconvenience, for which he should be compensated.

Taking everything into account, I'm satisfied the £175 compensation already paid fairly reflects the impact esure's poor service had on Mr W. And I'm not recommending that it pay anything more.

### **My final decision**

For the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 1 May 2024.

Sheryl Sibley  
**Ombudsman**