

The complaint

Miss K complains about how esure Insurance Limited (“esure”) dealt with a claim made by a third-party on her motor insurance policy.

What happened

Miss K has a car insurance policy with esure that started in November 2022.

Miss K says she received a call from esure. She was told there had been a claim made against her policy, and that there was a chance the policy wouldn’t cover the claim. Miss K says she was told she might have to go to court and instruct her own solicitor.

Miss K is unhappy esure are dealing with a claim on her policy when she hasn’t been in an accident. She says she’s been too scared to drive her car since the incident and it has affected her mental health.

Miss K says she hasn’t been involved in any accidents or collisions so she doesn’t understand why esure are dealing with the claim. She was particularly upset with the nature of the call she received advising her of the claim. Because she wasn’t happy she complained to esure.

Esure said it received allegations that Miss K’s car was involved in an accident and the claim can only be closed when the third-party insurer confirms it is no longer pursuing the claim. Esure said since Miss K had denied involvement it asked for evidence that her car was involved. Esure said it would only accept liability if the evidence was such that if the matter went to court a judge would rule in favour of the third-party. Esure apologised for the treatment Miss K received by the liability team – it said it provided feedback about this and arranged a payment of £50 to reflect the distress and inconvenience.

Miss K wasn’t happy with the response from esure so she referred her complaint to this service. One of our investigators looked into things for her. She said she thought the Miss K’s version of events surrounding the initial telephone call with esure was more persuasive and would have added to the impact on her mental health. She said she didn’t think the amount of compensation was enough so she recommended esure increase the compensation offered to £200.

Esure agreed to the investigator’s outcome but Miss K didn’t. She said £200 doesn’t cover the mental stress and emotional trauma that esure caused. Because Miss K didn’t agree the complaint has come 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.

I can see this incident and its consequences have had a significant impact on Miss K. I’ve no doubt Miss K has done all she can to try and prove her version of events and has acted in

good faith in liaising with esure. I can understand why she thought the circumstances, lack of witness testimony, and her own account of what happened would be enough to show her version of events was correct. And so when she was told there was a chance the claim would be settled I think this would have both shocked and upset her.

My role here is to look at whether esure acted in a fair and reasonable manner, and within the terms and conditions of the policy in the handling of the claim.

Dealing with the claim

I have reviewed the terms and conditions of Miss K's policy. It says the following;

"We have full discretion in the settlement of your claim or any legal proceedings which may arise and we may take over, defend or settle the claim in your name for our own benefit." And that is what it has done here. Because esure don't need Miss K's agreement or approval to accept liability. But I would expect it to base any decision on things such as the version of events provided by both parties, evidence to support or challenge the version of events, legal precedent, legislation, and the Highway Code.

Miss K said she wasn't involved in the incident so esure took steps to ask the third party for evidence of the incident. It explained it would only accept liability if it thought the evidence was such that a Judge would rule in favour of the third-party if the matter was to go to court. I've considered the information provided to me by esure and Miss K. I must say I empathise with the position Miss K now finds herself in. Unfortunately I don't think that's due to esure's handling of the claim. Esure has acted within the terms of the policy since it is entitled to deal with the claim as it sees fit.

The call with esure

I have listened to the call Miss K refers to in her initial complaint to us. I can understand why Miss K felt upset; it would be upsetting to be told a claim that you had no involvement in might have to be settled, and the settlement would have negative consequences for her. And esure accepting the call could have been dealt with better than it was. esure provided feedback to the agent involved and apologised to Miss K. This is what I would have expected it to do.

Compensation

When looking at compensation for distress and inconvenience the service is aware a business's mistake can affect someone practically or emotionally. We're all inconvenienced at times in our day-to-day lives – and a certain level of frustration and minor annoyance is expected. To make an award I'd need to see that the impact of a business's mistake was more than someone would expect to experience as part of everyday life.

I can see the impact of the initial call on Miss K was significant. I think being told someone has made a claim against you would be distressing. And to then be told it's likely the claim will be settled would add to that distress. I think the circumstances of the matter have had an impact on Miss K and this was compounded by the call referred to above.

I understand Miss K is very unhappy with this matter and that's understandable given what's happened. But esure accepts there were some issues with the service provided and agrees with our investigator's recommended settlement of the complaint. And I think that's a fair way to resolve things.

I know my answer will be disappointing for Miss K. But overall I think esure has acted fairly and reasonably, in line with the policy terms and conditions. Where it has accepted a failure

in service it has taken steps to try and resolve that for Miss K. esure offered Miss K £50 in resolution of her complaint. Our investigator recommended esure pay Miss K £200 to reflect the distress and inconvenience caused by the matter, and esure have accepted that recommendation. Given Miss K's compelling testimony about the effect of the call on her mental health I agree with the investigator. So I intend to direct esure to pay Miss K a total of £200 (less any payment already made) to recognise the trouble and upset caused. I think this is fair and falls in line with our service's approach.

Putting things right

For the reasons set out above I require esure Insurance Limited to do the following;

- Pay Miss K £200 for the trouble and upset she's been caused – less £50 if already paid

My final decision

My final decision is that I uphold this complaint and direct esure Insurance Limited to settle the claim by doing what I've set out above.

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

Kiran Clair
Ombudsman