

The complaint

Mr R complains about the settlement that esure Insurance Limited offered him for the total loss of his car following a claim made on his motor insurance policy.

What happened

Mr R's car was damaged in an accident, and he made a claim on his policy. esure said his car was a total loss and it offered him £39,108, less the policy excess, in settlement of his claim. But Mr R was unhappy with this and with the level of service he received. He thought he couldn't replace his car for this amount. He thought it would cost between £46,500 and £49,500, as shown by adverts, to replace his car.

Our Investigator recommended that the complaint should be upheld. He thought esure's decision that the car was a total loss was fair and reasonable based on the likely repair costs. He thought Mr R's adverts didn't show comparable cars at the date of his car's loss. But he thought esure hadn't reasonably justified its settlement for the car's market value based on the motor trade guides we use.

He thought it should offer Mr R the highest of the valuations provided by the motor trade guides, with interest on the difference from its initial payment. And he thought esure should pay Mr R £100 compensation for the trouble and upset caused by its level of service.

esure replied that it thought its settlement offer was fair as it was about an average of the valuations provided by the motor trade guides.

Mr R firstly replied that the settlement wouldn't be enough to buy a replacement car in the current market. He provided a further advert showing a similar car to his own advertised at a higher price. He said the difference between the settlement and this amount should be treated as an uninsured loss. Mr R said he hadn't received an interim payment from esure so interest should be paid on the whole settlement.

Mr R later accepted the Investigator's view and esure issued a payment of the amount it first offered. As esure didn't agree with the Investigator's view the complaint has come to me for a final 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.

I can understand that Mr R wants a fair settlement for the loss of his car. He said that he'd seen similar cars advertised for about £46,500 to £49,500 and so he was disappointed with esure's offer. He said he wasn't able to buy a replacement car until he'd received a settlement.

I can see that Mr R has raised further complaints about the service he received from esure. But I can only consider here his concerns about the settlement offered and service issues up to esure's response to his complaint.

Mr R's policy provides for the car's market value in the case of its total loss. I can see that this is defined in the policy booklet as:

“the amount you could reasonably have expected to sell your car for on the open market immediately before your accident or loss. Our assessment of the value is based on cars of the same make and model and of a similar age, condition and mileage at the time of accident or loss. This value is based on research from motor trade guides ... This may not be the price you paid when you purchased the car”

The Investigator has explained this service’s approach to car valuations. We don’t provide valuations for cars but look to whether the insurer’s offer is reasonable. In most cases, we assess the market value as the price which the consumer would have had to pay for a comparable vehicle across the various markets, immediately before the time of the damage or loss.

This could be slightly less than advertised retail prices, although this will depend on the most likely market for the particular age and model of vehicle. Because of recent changes in the market, we are increasingly hearing of cars selling either for or close to their advertised price.

Assessing the value of a used vehicle isn’t an exact science. We generally find the valuations given in motor-trade guides most persuasive. These guides are based on extensive nationwide research of likely selling prices. We also take all other available evidence into account, for example, engineer’s reports, advertised prices and independent valuations.

Our Investigator thought esure’s settlement offer wasn’t fair and reasonable. So I’ve checked how he came to this conclusion. I can see that he looked in the motor trade guides we use for cars of the same make, model, age, mileage, condition and factory-fitted optional extras as Mr R’s car at the date of its loss.

Mr R provided adverts for similar cars advertised at higher prices. But we don’t find advertisements particularly persuasive as these are essentially asking prices and aren’t selling prices. It’s for this reason that the trade guides are used as they provide evidence of likely retail selling prices. But I have considered these and looked to see where the advertised cars are identical to Mr R’s. And I can see that there are differences in mileage which make the advertised cars more expensive.

Given the current challenges in the used car market the motor valuation guides have a wider range of values than we have seen previously. And we think going by the highest will ensure consumers have received a fair offer, allowing them to replace their car with one of the same make, model and specification. So we now expect insurers to pay the highest of the trade guides, unless they are able to provide us with evidence which supports a lower valuation.

esure had provided a valuation of £39,108, which was less than the highest of the valuations provided by the guides. It hasn’t provided evidence, such as engineer’s reports, to support this lower valuation. And so I agree that esure’s offer wasn’t fair and reasonable. And so I require it to increase this to £40,836, less the policy excess. This will make the settlement in keeping with our approach and the policy’s terms and conditions.

I can see, based on esure’s records, that esure offered Mr R an interim settlement, but he declined it. I think Mr R could have accepted this offer whilst still pursuing his complaint. And so I think esure should pay Mr R interest on the difference between £39,108 and £40,836 from the date of its original offer until final payment.

Mr R had asked for his car to be repaired rather than written off. esure had offered him cash in lieu of a settlement so he could arrange his own repairs, but he had declined this. The policy’s terms and conditions state:

“Your car will be a total loss if the cost of your claim is more than the difference between the market value of the car before the accident or loss and the current value of the car after the accident or loss.”

And I can see that esure's engineer's estimate of the repair costs was £27,000 against the car's market value after the accident £19,500. So the repair costs are more than the difference between the car's market value before and after the accident. And so I think it was fair and reasonable and in keeping with the policy's terms and conditions for esure to declare it a total loss.

I agree that esure's level of service has been poor. Mr R said he'd spent long periods being kept on hold, and had no replies to his emails. He was also offered an unfair settlement. Our Investigator recommended that esure should pay him £100 compensation for this trouble and upset. I think that's in keeping with our published guidance where the impact of an error has been felt over a month. And so I'm satisfied that £100 compensation is fair and reasonable.

Putting things right

I require esure Insurance Limited to do the following:

1. Increase the settlement of Mr R's claim to £40,836 and pay him the difference between this amount and its original offer.
2. Interest should be added to the amount of the settlement not yet paid at the rate of 8% simple per annum from the date of the original offer to the date of final payment†.
3. Pay Mr R £100 for the distress and inconvenience caused by its level of service.

†If esure considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr R how much it's taken off. It should also give Mr R a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

For the reasons given above, my final decision is that I uphold this complaint. I require esure Insurance Limited to carry out the redress set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 2 September 2024.

Phillip Berechree
Ombudsman