

The complaint

Mr L has complained about esure Insurance Limited. He isn't happy that it offered a cash-in-lieu payment following a claim under his motor insurance policy and the way it dealt with his claim.

What happened

Mr L has had a representative advance this complaint on his behalf, but for ease of reading I'll just refer to Mr L.

I looked at this case and provided my initial thoughts in my provisional decision as follows;

Mr L made a claim under his motor insurance policy with esure, and the claim was drawn out but given the passage of time (over five years) neither party is sure why. Although in more recent times there was some delay while the claim was validated, and appropriate documentation was provided to support the claim. However, when the claim was eventually settled Mr L didn't agree with the settlement offer made so he complained to esure.

esure maintained its offer to pay a cash-in-lieu (CIL) settlement which was based around the time of claim a few years before was fair. It didn't think it could look to repair the car now as there would be additional damage given the passage of time that wouldn't be attributed to the claim, and it had the claim verified by one of its engineers. But Mr L thought he should be paid a higher amount as CIL in line with an alternative quote he gained. And he thought esure should pay for a hire car for the time Mr L's car would be in for repair plus compensation for the delay in advancing the claim and the stress and inconvenience caused. So, he complained to this Service.

Our Investigator looked into things for Mr L but didn't uphold his complaint. Although he could understand Mr L's position he didn't think esure had done anything wrong in looking to settle the claim by way of a CIL payment in line with its engineer's position. He thought esure's offer of around £5,400 CIL was fair and in line with the policy.

As Mr L didn't agree the matter has been passed to me for review.

What I've provisionally 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 can understand Mr L's frustration here as he feels the costs to repair his car should be more, but I agree that esure's offer to pay a CIL payment of just over £5,400 seems fair. I know this will come as a disappointment to Mr L, but I'll explain why.

I also think it's important to explain I've read and taken into account all of the information provided by both parties, in reaching my decision. If I've not reflected something that's been said in this decision it's not because I didn't see it, it's because I didn't deem it relevant to the crux of the complaint.

This also means I don't think it's necessary to get an answer, or provide my own answer, to every question raised unless it's relevant to the crux of the complaint. And I'd like to reassure Mr L that whilst I'm aware I may have condensed some of the complaint points in far less detail and in my own words, I've read and considered everything he's told us. I'm satisfied I've captured the essence of the complaint and I don't need to comment on every point individually, or possibly in the level of detail he would like, in order to reach what I think is a fair outcome. This isn't meant as a discourtesy, but it simply reflects the informal nature of our Service.

I can understand why Mr L has found the whole process frustrating and it is clear that esure haven't been particularly helpful in providing policy documentation from around the time of claim to Mr L and haven't been very responsive to this Service either. However, although this has made things more difficult esure have eventually provided details of the policy from around the time of claim. And the general position advanced by our investigator is in line with this.

Insurers will generally look to repair or replace the damage caused in looking to settle claims, but they will also ensure they act in a cost-effective way in deciding '...which method we use to settle your claim.' I know Mr L questioned the wording relied on by our Investigator in forming his view, but esure has provided the documentation now. And most insurers would act in a similar way when looking to settle claims after a prolonged period.

In this instance, I accept that it would be extremely difficult for esure to repair Mr L's car given the passage of time and obvious further damage that would have been caused. So, I think looking to settle the claim on a CIL basis doesn't seem unreasonable. I know Mr L has outlined that there could be ongoing increased costs year on year, but I don't think esure are responsible for these. And it hasn't acted unfairly in offering to pay the claim in line with what it would have cost esure at the time of claim.

In looking at the quotations I can see that Mr L's quote has increased labour costs and the cost of parts. But I don't think esure's quotation is unfair. I accept that esure is likely to get the repair done far cheaper given its network of repairers and ability to negotiate costs down, but I think it is fair for esure to pay costs in line with what it would have paid. I know there has been some delay in advancing this claim but both sides can't explain the delay and must take some responsibility for this, so this feels a fair way to settle the claim now.

I note that Mr L has suggested there should be an additional amount paid in case more work is required. But, I think the two engineers would have picked up anything obvious already and in the event anything further comes to light Mr L can approach esure again to see if it will consider any increased costs. However, I must highlight that given the passage of time it is likely that costs will increase, and other damage will occur or worsen, but I don't think esure should be held responsible for this.

Turning to the provision of a hire car for the period of repairs I can understand why Mr L would like these costs, but I'm not persuaded that esure should pay this. There isn't anything to say for sure that such costs will be incurred and ordinarily a courtesy car would be supplied by the repairing garage without charge. I know Mr L feels that he would need a similar high specification car to his own, but I would expect a consumer to mitigate their position and Mr L has coped with his damaged vehicle until now. And esure would only have provided a courtesy car had it repaired Mr L's vehicle. So, I don't think it would be fair to ask esure to pay hire car costs now.

Finally, I note that Mr L feels his claim should have been settled on a non-fault basis as his car was hit by a third party, but I haven't seen sufficient evidence of this to comment here.

And esure hasn't addressed this in its final response letter and I think it only fair that it is given the opportunity to do this in the first instance. So, I will leave Mr L to advance this with esure if he wishes.

Given all of this, I presently think the fair and reasonable thing to do, in the particular circumstances of this case is for esure to pay Mr L its CIL offer of £5443.07.

Replies

esure acknowledged my provisional decision but didn't provide any further comment while Mr L responded in detail.

In the main Mr L raised issues and reiterated the position and arguments he had already made to this Service in support of his claim. He said that any CIL should not be made in full and final settlement as esure had suggested as there could be unforeseen damage. Mr L highlighted that one of the repairers said that any further hidden damage would be subject to a further estimate. And he said that a repairer had suggested the cost now would be nearly £2,000 more given the passage of time and increase in parts and labour due to general market forces.

However, Mr L reiterated that he was happy with a CIL payment but didn't want a '*full and final caveat*' and wanted the payment '*subject to an agreed CIL sum.*' And Mr L said he wanted '*additional monies to cover the "unknown damage risk" if Esure are wanting to dispose of this claim on a full and final basis.*' So, Mr L would look for a removal of any full and final settlement if an additional amount wasn't added to cover unknown damage.

Plus, Mr L went on to highlight that he thought esure had not engaged in answering this complaint and was slow and delayed in responding to this Service about the complaint, including providing policy documentation. Ultimately, frustrating the process causing Mr L increased stress and wasted time.

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 remain of the view that the complaint should be settled as outlined in my provisional decision. I can understand the further points Mr L has raised but I think esure's CIL offer feels fair.

This complaint is clearly complicated by the fact that the claim is over five years old and as outlined above, neither side can explain the reasons for the first few years delay in the claim and so both sides must take some responsibility for this. And I have to be fair to both sides when I consider complaints and given the significant passage of time between the date of the incident and the advancement of the claim I don't think I can say esure's offer to deal with the claim in line with the costs it would have incurred, at the time of the incident, is unfair.

I do accept that if there is further damage found that relates directly to the original accident then esure should be asked to look at this and any additional costs incurred linked solely to the original incident. However, from the evidence provided the repair should be relatively straightforward and I don't envisage any additional costs related to the original incident, especially as the car has been used since the incident and obviously would need to be roadworthy and have passed its MOT. But Mr L can approach esure after the repair of the

vehicle if there is any additional damaged identified attributed solely to the original incident if that is the case

I know Mr L has highlighted that the cost of repairs has escalated due to general market forces and the passage of time. But, as outlined above I don't think esure should have to pay more for the claim than it would have cost at the time of the incident. I accept that some recent delays in finalising this complaint have been contributed to by esure. But it isn't clear why Mr L didn't fully advance the claim at the time of the incident so I can't hold esure responsible for all the delays. And I think the early delay in advancing the claim has had the biggest impact on the claim as a whole. Plus, I would expect a consumer to mitigate their position and leaving the car unrepaired was Mr L's choice which I can't hold esure responsible for either.

Given all of this, I remain of the view that the fair and reasonable thing to do, in the particular circumstances of this case, is for esure to pay Mr L its CIL offer of £5443.07. And I'm not asking esure to do anything further or to pay any further costs. But if it transpires that there are any additional costs linked to unforeseen damage Mr L can advance this with esure upon completion of the repairs.

My final decision

It follows, for the reasons given above, that I agree esure Insurance Limited should pay Mr L a cash-in-lieu payment of £5,443.07.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 25 September 2024.

Colin Keegan
Ombudsman