

The complaint

Miss R complains about how esure Insurance Limited (“esure”) handled a claim following an accident and subsequent theft of her car.

What happened

Miss R had a motor insurance policy with esure covering her car.

On Thursday 18 May 2023 she was involved in a collision with a third party.

Miss R reported the collision to esure and made a claim. esure told her that she would be contacted by a repairer and her car would be recovered. She locked the car and left it at the site of the collision.

On Friday 19 May she went back to the car. It was still there. On Saturday 20 May she again went back to the site of the collision. Her car wasn't there, and the third-party vehicle she'd hit had been vandalised. She called esure to ask for a courtesy car. She said it told her that no recovery of her car had been arranged.

Ultimately her car wasn't recovered. Miss R complained about what'd happened and esure's service. esure changed her claim to being a theft claim under her policy. It provided her with a hire car, which under the terms of her policy she would have been given for up to 21 days.

Miss R had the use of the courtesy car for an extended period. esure said it would pay Miss R £100 compensation for call delays.

She brought her complaint to this service. Our investigator looked into it and thought it would be upheld. He asked esure for the calls Miss R had made and they showed esure hadn't arranged for the recovery of her car. He said he thought esure should take responsibility for the theft of her car and settle Miss R's claim according to the terms of her policy, including its roof rack. He also thought it should pay her for her personal belongings that were stolen, and pay her £500 for her distress and inconvenience.

Miss R also asks for an apology from esure.

esure didn't agree with the view. Because it didn't agree, this complaint has been passed to me to make a decision.

I issued a provisional decision as some of the details of the case had changed since the view was issued:

I'd like to begin by noting I've set out the background above in less detail than the evidence in the file. I want to assure Miss R that I've read and considered all the available information, including her responses and further points she's made to this service.

There has been extensive correspondence between this service, Miss R and esure. I can see areas of it have already been dealt with, so I'm not going to comment on every point made and raised. No discourtesy is intended by my approach which reflects the informal

nature of this service as an alternative to the courts.

I'm intending to uphold Miss R's complaint, but I'm issuing this as a provisional decision because some of the details of the view have been updated since it was issued.

From the file, I can see that Miss R's claim was settled in mid-2023 for the loss of her car.

This was recorded on her details as a theft loss. I've thought about whether it's appropriate for esure to record it as a theft, rather than a fault-accident, and on balance I think esure's decision to do this is fair and reasonable.

I know Miss R has asked that esure refund her excess, but paying her excess is part of her contract with esure and I don't think it's fair I require esure to do this. Her excess is the same for theft as it would be for her collision so I'm satisfied she's not been put in an unfair position.

I asked esure for details on how it'd settled the claim. It supplied some evidence showing it'd settled Miss R's claim at £4,150 for her car, then it also said it'd paid £150 for her personal belongings. It also said it'd paid Miss R £100 in addition to this and indicated that was for more personal belongings, but from the evidence I have this extra amount was solely for the call delay compensation.

I also asked Miss R for details of her personal belongings that had been stolen in the car.

She told me that the roof rack had a value of about £250. The child car seat about £250. Some specific items taken included sunglasses at a total cost of £260. She's also provided receipts showing she bought some sports equipment and other items that were stolen.

There were also sentimental items in the car that Miss R won't be able to replace. Unfortunately, I can't take the emotional value of these into account in my decision and I know that may be upsetting for Miss R.

I noted under the terms of her policy with esure that she was able to claim for the child seat, but I couldn't see that esure had paid her for this specifically under the terms of her policy.

Turning to the cover under her policy, I can't see that esure has actually paid out as it should under the policy terms.

It's only paid for the loss of Miss R's vehicle and then £150 for her personal belongings.

Miss R was apparently told she couldn't claim for the roof rack as it was a personal belonging, but I don't think that's fair. I can see in its notes, that esure refers to it as a "removable roof rack". There's no specific mention of cover for roof racks under the policy wording, but I think it's fair I say the rack was reasonably fixed to the roof of the car and clearly is some kind of accessory in that the rack is something that can be added to a vehicle to add to its appearance, value or functionality.

So I think it reasonably falls under the definition of a "car" under esure's wording:

"your car - Any private motor vehicle insured under your policy and described in your Certificate of Motor Insurance. In Sections 2 (Damage to your car) and 3 (Fire and theft) of this Policy Booklet the term car also includes:

- *Non electrical accessories and spare parts belonging to your car, whether they are on or in your car, or in your private garage."*

Miss R has identified the brand of rack, and said she thinks they cost about £250, which I think is reasonable given the brand and the cost of the bars and footpacks. She's provided a photo of the car showing them fitted.

Miss R also said she'd fitted a spare wheel for her car and this was stolen with it. Again, I think this reasonably forms part of the definition of "your car" in esure's wording so I think it needs to cover that. I've looked online and they're typically available for about £89.

So I think esure reasonably needs to pay for those under the terms of her policy.

I also think esure needs to settle Miss R's claim for the child seat as I can see this was covered under the policy as a separate item, subject to a limit of £100. I know Miss R has said the seat cost much more than this, but the policy has a limit and it's not fair that esure has to pay more than this amount.

It's important I say that this limit would have applied to the replacement of the child seat due to the collision rather than the theft. And, although this incident is being treated as a theft claim, the car was firstly involved in a collision so I think cover needs to apply to the child seat.

I don't think esure's actions in not covering her claim to the extent shown in the wording have been fair, which is why I've said it needs to settle her claim as it should have done.

I know Miss R has said her personal belongings amount to about £2,000 in total, but I need to consider what cover was provided under esure's policy and what it's fair to ask it to pay.

But Miss R has been caused significant distress and inconvenience both by esure's poor handling of her initial claim and then its continued poor dealing with the detailed elements of the theft. I can see this inconvenience continued for some time, but I can see esure gave Miss R a hire car for an extended period which was fair and reasonable.

I've also thought about whether it's fair to require esure to pay Miss R for all her items that were stolen with the car. I need to consider whether esure's poor handling of that initial call, and its failure to send recovery, meant that her car was stolen with its contents. And I don't think it's fair I hold esure accountable for this. It made a mistake in not recovering her car, but it's not reasonable to say that directly led to its theft the following day.

I also need to think about whether Miss R should, perhaps, have removed some items from it when she re-visited the car the day after the collision

Taking everything into account, I think it's fair I say that Mrs R's distress and inconvenience has been significant, and esure's poor claim handling at the very start of her claim had the ultimate impact of some car thieves taking advantage of the delay and them stealing her car, containing her precious belongings.

But I don't think I can award the amount Miss R asked for in respect of her personal belongings that were in the car. On balance, I think esure now needs to pay Miss R

additional compensation of £500, over the £100 it's already paid her for the call delays, in respect of her overall distress and inconvenience.

esure also needs to pay her £60 for the loss of use of her car for a period of 6 days from 19 to 25 May during her claim when she was left without transport. And I understand Miss R

needed to take the hire car abroad for a period during its hire, which meant she spent £80 on

a green card. It's my understanding this wouldn't have been charged if she'd used her own car, so it follows I think it's fair esure pay for it.

Responses to my provisional decision

esure agreed with my provisional decision.

Miss R responded and said she'd never received the £100 compensation for the delays. She reminded me that she'd asked for an apology from esure and I hadn't dealt with this in my provisional decision.

She asks for confirmation that the recording of a theft claim on her record wouldn't affect her car insurance premiums in the future.

Miss R has talked about the situation she found herself in following the collision, at the side of a busy road with her young family. She says she wasn't told to clear her car and likely wasn't able to at the time. She asks that I reconsider her original £2,000 personal belonging claim.

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'd like to thank Miss R for her considered response to my provisional decision. I'd like to assure her that I do understand and empathise with her, very real, situation both when she caused the initial collision and then later when her car had been stolen. And particularly so when it involves a family car and its resulting impact on daily life.

I'll deal with her questions in turn.

Firstly, I think it's fair she gets an apology from esure. I'm not able to ask it to carry out her instructions verbatim, but I'll include this in my decision in order that Miss R can hopefully gain closure from her claim and complaint.

I'd also ask esure to look at the payments it's made to Miss R around the claim. The information I have seems to show me that it paid £150 personal belongings plus an additional £100. But as Miss R denies receiving this, and I'm not certain about the method esure used to send the money, I need esure to check its accounts and tell Miss R how and when the money was sent, or re-send it if needed.

It's very important Miss R understands that any incident or claim on her records will have some impact on her premiums over the coming years. This is because esure, like other insurers, assess premiums using various risk factors including whether there's been an incident like the ones involving Miss R.

In earlier correspondence, esure and Miss R talked about whether this entire episode would be recorded as a theft claim (which it has been, and I've talked about this being fair and reasonable) or a 'fault' collision for Miss R. So, although there will likely be some impact on her premium due to the claim being made, I'm satisfied that this impact on her premiums in future will likely be less than if she had the fault collision claim recorded against her. I also say this because I'm also aware the third party Miss R hit has made a further claim from esure.

I understand Miss R's frustration with losing so much from the car when it was taken, and I'm

aware that my provisional decision didn't meet with her request. In my decision I also need to think about the amount of cover esure gives under the terms of its policy, and whether it's fair and reasonable to ask it to pay more.

In her response, Miss R talks about needing to see esure take responsibility for the theft of her car. As I said in my provisional decision, *"I don't think it's fair I hold esure accountable for this. It made a mistake in not recovering her car, but it's not reasonable to say that directly led to its theft the following day."*

What this means is I'm able to consider elements of Miss R's losses, which I've tried to do in this decision, but I can't consider them all because I don't reasonably think esure was responsible for the theft of her car. Miss R may be able to make a claim under the terms of a personal belongings policy if she has one, these can often be included within a household contents policy.

My final decision

It's my final decision that I uphold this complaint. I require esure Insurance Limited to pay Miss R:

- £100 for the child seat
- £250 for the roof rack
- £89 for the spare wheel
- £80 for the green card for the hire car
- £60 for loss of use
- £500 compensation for her distress and inconvenience.

esure Insurance Limited must pay the amount within 28 days of the date on which we tell it Miss R accepts my final decision. If it pays later than this, it must also pay interest on the amount from the date of my final decision to the date of payment at 8% a year simple.

esure also needs to write to Miss R with its apologies.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss R to accept or reject my decision before 10 October 2024.

Richard Sowden
Ombudsman