

The complaint

Mrs Y is unhappy with the way esure Insurance Limited (esure) handled a claim she made under her motor insurance policy.

What happened

In October 2022 Mrs Y was involved in a car accident involving a third-party vehicle. She contacted esure to report the accident but said she didn't want the claim recorded on her own policy as she thought the other driver was at fault.

The third-party's insurers disputed liability, so esure raised the claim under Mrs Y's own policy so they could start repairs to her car. But Mrs Y said she didn't want to get her car repaired until it was inspected and it was confirmed she wasn't at fault for the accident.

In June 2023 esure wrote to Mrs Y and offered to split liability 50/50 with the third-party. But Mrs Y disagreed and said she didn't want to accept any liability. Mrs Y raised a complaint and said she wasn't being given updates on the progress of the claim and found it difficult to contact esure. They upheld the complaint and issued two final responses – one in March 2023 and a further reply in July 2023. The complaints were upheld in relation to Mrs Y's difficulty contacting esure and long phone wait times. They awarded a total of £50 compensation.

But esure said because liability was disputed by the third-party, the claim would likely take some time to conclude due to matters outside their control. They said while there was no set timeframe on any claim, they confirmed they had not paid the third-party's claim costs and had nominated solicitors to deal with any court proceedings they received.

Court proceedings were later started by esure to make a recovery of the claim's costs from the third-party insurer. The claim ultimately settled in Mrs Y's favour; meaning she was found not at fault for the accident. Mrs Y's policy excess was refunded and esure said the claim would close when all payments had been recovered. Mrs Y's policy premium was also recalculated and esure restored her no claims discount (NCD) entitlement.

But Mrs Y remained unhappy with how esure had handled the claim and their response to her complaint - so she brought it to this Service. Mrs Y said even after the court proceedings had found her not at fault for the claim, esure took a long time to conclude everything and mark the claim as non-fault. She was also unhappy her premiums had increased, and she wanted esure to either reduce her monthly payment back to £50 a month or cancel the policy so she could take out another policy elsewhere.

An Investigator considered the complaint and looked at what had happened. He recommended the complaint be upheld and said esure should pay a further £100 compensation for the way they'd handled the claim. But he didn't think esure had acted unfairly in pursuing the claim or how they'd calculated the increased insurance premiums.

While esure agreed with the Investigator's findings and said they would pay an additional £100, Mrs Y disagreed. She said she had mostly progressed the claim herself by pushing

esure to go to court and not accepting their 50/50 liability offer. And her premiums had increased while she was waiting for a court date to settle liability which had a financial impact on her. She said even after liability had been found in her favour she still had to ask for a reduction in her premiums - but they hadn't returned to what they were before the accident.

Mrs Y said the investigator's recommended compensation offer of an additional £100 didn't address the losses she suffered. As Mrs Y has asked for an Ombudsman to review the complaint, it's 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.

I want to start by explaining I won't be repeating the entirety of the complaint history here in my decision or commenting on every point raised. Instead, I've focussed on what I consider to be the key points I need to think about in order to reach a fair and reasonable conclusion. This reflects the informal nature of this Service and our key function; to resolve disputes quickly, and with minimum formality. However, I want to assure both parties I've read and considered everything provided.

It's not in dispute that esure's customer service wasn't to the standard which Mrs Y could reasonably expect to receive. I can see esure acknowledged there'd been long waiting times on their phone lines and their communication had been poor. I don't need to make a finding on whether or not esure did something wrong here – they did. What I need to decide is whether they've done enough to put things right. They apologised for this and made two separate awards of compensation totalling £50.

But the crux of this complaint is really down to how esure handled the claim, and whether there was a mishandling or delays which caused an impact to Mrs Y. So, I've looked at the main points Mrs Y has raised and thought about whether esure have acted unfairly when progressing the claim.

I can understand Mrs Y was unhappy about the liability offer esure made where they offered a 50/50 split. I've looked at why this was, and I can see esure were still requesting an accident sketch from Mrs Y several months after the accident had happened. Without full details of what their policyholder said had happened during the accident, esure would have needed to consider the best way to deal the claim in line with the policy's terms – which allow them to take over, defend or settle it. As this is usual in motor insurance policies, I don't find it unreasonable to apply it here, as long as esure did so fairly.

Insurers are entitled to take a commercial decision about whether it's reasonable to contest a third-party claim or better to compromise. When Mrs Y responded to this offer and explained she didn't feel she was at fault, esure appointed solicitors to make a recovery of the claim's costs. I can see solicitors were discussing the accident with Mrs Y when proceedings were being issued. Overall, I'm satisfied this is fair in the circumstances and esure have acted in line with the policy's terms.

Since the complaint was brought to this Service, esure have recovered their costs following the legal proceedings; they've refunded Mrs Y's policy excess and recalculated her premiums, reducing her premium and restoring her NCD. I appreciate Mrs Y is still not happy with the recalculated premiums – she says they should have returned to their pre-accident level. And in respect of Mrs Y's premium increasing during the time the claim was disputed, I can see she feels very strongly about this and wants to be refunded the difference in

premiums between before the accident and while the claim was ongoing. Mrs Y, finding the renewal premium wasn't to her liking, has now left esure and gone elsewhere and received a cheaper premium.

This Service isn't the regulator and I'm not able to tell esure what they should charge their customers for insurance. This is because how an insurer prices their cover is a matter of commercial judgement. As long as esure hasn't treated Mrs Y differently from any other customer, we wouldn't usually say they acted unfairly.

Having looked at what's happened and the additional information esure has provided, I'm satisfied they acted fairly. I appreciate Mrs Y was unhappy her premiums increased to over £1,800 when the policy renewal invite arrived. This looks to be because Mrs Y's NCB was reduced from six years to three years for that renewal and the claim was shown as 'fault'—meaning esure had nobody to recover the costs from at that stage.

Even though the claim has now been recorded as non-fault, the third-party was disputing liability, so Mrs Y would've always had an open claim on her policy. But it's important to note the premium didn't increase until the renewal invite, which means Mrs Y wasn't paying more while the claim was ongoing. And the premium was reduced a month after the claim was resolved in any event, so Mrs Y ultimately didn't end up paying the higher sum.

I appreciate esure hadn't been as clear as they could've been about how Mrs Y's premiums and NCD would be affected. But they did inform her it's standard practice for an open claim to be classed as fault until it's settled otherwise. And when the policy was revised to show the claim as 'non-fault', the premium was reduced. The claim costs were received by esure in September 2023 and the claim closed in October 2023. This meant Mrs Y's NCB was increased to six years and the premium was recalculated to a lower sum when she agreed to the renewal. I find the difference between the invite cost and the amount actually paid was not actually a loss Mrs Y incurred.

Looking at the rating's information esure has provided, I'm persuaded the claim, even though it was non-fault, would still have an impact on Mrs Y's policy premium. And I'm satisfied this is fairly standard across the motor insurance industry. In combination with the other rating factors esure identified, I'm satisfied their actions are fair in the circumstances of this particular complaint. This means I won't be asking esure to make any premium refunds – as I don't consider any are due.

Putting things right

A compensation award isn't intended to fine or punish a business, it's to recognise the impact the business' actions have had on their customer in a particular complaint. When deciding what amount would be fair, I need to consider how Mrs Y was affected. Mrs Y says she's been financially impacted because her premiums and NCD have been affected due to the open claim.

But even if esure's communication had been better, I can't see that anything would've been different in respect of these claim's issues. Unfortunately, the claim was open for some time, as the third-party was disputing liability. So, even if esure had provided more explanation to Mrs Y, I'm satisfied the open claim would always have had an impact at renewal.

I haven't commented on Mrs Y's points around her number being blocked as I can see the Investigator has responded to this previously and I'm ultimately satisfied with esure's response in which they explained there is no physical way for them to block a customer from being able to contact them.

I've no doubt the delays and uncertainty would've caused Miss Y some additional distress and inconvenience. And I can see esure have agreed with the Investigator to pay an additional £100 compensation, on top of the £50 already paid.

I have sympathy for Mr Y's complaint about poor communications from esure. Mrs Y received poor service when she couldn't get through to the liability team several times on the phone and she's particularly unhappy about their failure to respond to her emails and provide updates on the claim. I haven't detailed everything here – but I've considered everything Mrs Y has said about the impact on her.

Having thought about this complaint, I think a more suitable sum would be an additional £150 to recognise the impact of esure's poor communication, bringing the total amount of compensation to £200.

My final decision

For the reasons given above, I uphold this complaint and direct esure Insurance Limited to pay Mrs Y an additional £150 compensation (a total of £200 inclusive of previous payments).

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs Y to accept or reject my decision before 27 November 2024.

Stephen Howard
Ombudsman