

The complaint

Mr H is unhappy with how esure Insurance Limited dealt with a motor insurance claim.

What happened

Mr H held a motor insurance policy with esure. In October 2022, Mr H was involved in an accident involving another vehicle. He notified esure and the matter was closed as notification only. But, in October 2023, Mr H received a letter from solicitors acting for the other driver's insurer. They were pursuing him for around £4,300 of claim costs.

Mr H contacted esure but esure didn't take action until late November. By that time, the third-party solicitors had sent Mr H a county court claim form. The matter wasn't resolved in time and the court issued judgment against Mr H in default.

esure was able to resolve the matter. But Mr H was unhappy with the amount of distress and inconvenience he'd suffered. esure didn't respond to Mr H's complaint in time, so Mr H referred the matter to the Financial Ombudsman.

Our investigator looked into what happened. He said he couldn't hold esure responsible for Mr H being chased in the first place. But he thought esure had delayed helping Mr H and had provided poor service. He recommended esure pay Mr H £150 to put things right.

esure accepted this. Mr H didn't agree. He didn't think £150 was enough to reflect what had happened. He thought £2,000 was a fairer amount, in line with his premiums that year.

Because Mr H didn't agree, the matter was referred to me. I issued a provisional decision. In it, I said:

"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 intend to uphold the complaint and award more compensation to Mr H. I've explained why, focusing on the points and evidence I consider material to my decision.

I haven't seen any evidence to suggest that esure should have known that Mr H was being pursued by the other driver's insurer until Mr H told esure about it. Being chased for a large amount of money, with a threat of legal action, must have been distressing for Mr H. But it wouldn't be fair for me to hold esure responsible for the actions of the pursuing third parties.

Even so, given the seriousness of the situation, I think esure ought to have acted more quickly. esure's notes show that Mr H advised on 14 October that he was being pursued. The notes show esure told Mr H to contact another department. Mr H has explained that he had great difficulty contacting esure. He's provided a screenshot showing very long hold times. esure has also provided an internal email that shows Mr H had contacted another department, clearly distressed, trying to speak to

somebody who could help. He also complained to esure's executive complaints team, seeking help before it was too late.

It wasn't until 20 November, more than five weeks later, that esure took action. From there, it only took two weeks for esure to have contacted the pursuing solicitors, appointed its own, and raised a settlement cheque. If it wasn't for the long delay, I think esure could have resolved things without Mr H having to suffer the distress and ongoing uncertainty of the court order, which was issued on 28 November. At the least, I think esure could have prevented a large portion of the distress and inconvenience that Mr H suffered, and could have reassured him a lot sooner that the matter was in hand. Not everything was within esure's control. But I think much of what happened could have been avoided.

Based on Mr H's emails to esure and his conversations with our service, I can see he was deeply worried about what was happening, fearful of the financial and legal consequences, and very frustrated with the lack of support. So, to put things right, I intend to award Mr H £500 of compensation in total.

I appreciate Mr H would like esure to pay closer to £2,000. But I don't think that's a fair amount in the circumstances. Our published guidelines on compensation explain that awards of that level are for situations that cause sustained distress, potentially affecting someone's health, or severe disruption to daily life often for more than a year.

The amount I'm intending to award is in line with cases where a firm causes considerable distress, upset and worry – and/or significant inconvenience and disruption that needs a lot of extra effort to sort out, typically over weeks or months. I think this fairly and more accurately captures the impact of esure's mistakes, keeping in mind what I'm holding it responsible for.

I appreciate this may be disappointing for Mr H. But I'm satisfied £500 is a fair amount for esure to pay."

Responses

I asked both parties to send me any further comments and information they wanted me to consider before I made my final decision.

esure said it had nothing to add.

Mr H provided additional points. In summary, he said the dispute stems from esure's failure to log his claim properly in 2022. He says this meant esure didn't fight his corner, which left the third party to pursue him instead. So, where I mentioned around three months of impact, Mr H feels that the issues go back much further than this. He feels he's been misled for around 15 months.

He would like these additional points to inform my decision about the appropriate level of compensation. He's said my award should stand out to make esure change its ways.

He also said because esure didn't fight his corner, he was essentially forced to accept liability for the accident. He says this has left him with a fault claim on his record, which has had – and will continue to have – an impact on his renewal premiums.

I put Mr H's comments to esure. esure provided more evidence to show that it hadn't been contacted by the other insurer. It provided screenshots from its internal system. But it said it had undergone a system change so it couldn't be completely certain.

esure also said the claim was recorded as 'fault'. But it couldn't be sure why its legal team had settled the claim without challenging liability. It agreed that this meant Mr H had not had an opportunity to challenge this. So, it said to deliver a fairer outcome for its customer, it would change the record to show the claim as non-fault.

Our investigator put this offer to Mr H and he accepted it. But he also wanted esure to compensate him for the extra premiums he'd been charged.

As I've received responses from both parties, I now think it's appropriate to issue my 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.

For the reasons set out in my provisional decision (which I've reproduced here and which forms part of my final decision) and for the additional reasons I've set out below, I uphold Mr H's complaint.

I've seen no evidence that esure incorrectly logged Mr H's claim in 2022. esure's claim notes show that the claim was closed because Mr H didn't want to proceed with it, which Mr H hasn't disputed. So, I don't think esure did anything wrong there.

I've also seen no evidence that esure knew about the third party's claim before Mr H got back in touch in 2023. esure has acknowledged that it can't be completely certain of this because of a system change. But it has provided screenshots of the portal it shares with the other insurer – and there's no indication that the other insurer used this to log the third party's claim. I also think it's likely that if the other insurer had been in touch with esure, that there would be some record of this in all the evidence esure has provided. But having reviewed esure's internal notes and system screenshots, I've seen no suggestion of this. So, on balance, I don't think it would be fair for me to hold esure responsible for anything prior to October 2023.

Even so, after Mr H did get back in touch, esure dealt with the matter slowly and poorly. I'm satisfied that Mr H suffered a lot of distress and hassle as a result of those delays. I've considered the further points Mr H has made but they don't change my view that £500 is a fair and reasonable amount of compensation to recognise those issues.

I appreciate Mr H would like my award to be higher, in part to change esure's behaviour. But my role is to resolve individual complaints and to provide appropriate redress. The Financial Ombudsman is not the regulator. We do not have the power to make rules for financial firms, or to punish them for getting things wrong. So, I won't be increasing my award further. Regarding liability, I agree that Mr H wasn't given a chance to challenge who was responsible for the accident. So, I think it's fair and reasonable that esure changes the record of the claim from fault to non-fault.

Mr H would like esure to compensate him for an increase in his premiums. But I haven't seen evidence to show how much Mr H's premiums have increased from the claim being recorded as fault, as opposed to any increase that may have applied with the claim recorded

as non-fault, or any other factors that may have contributed to an increase, like inflation or other policy changes. So, I won't be asking esure to compensate Mr H for this.

However, Mr H may wish to contact his recent insurers and ask them to re-rate any policies he's taken out since, so that they can take into account the claim changing to non-fault.

I appreciate my outcome may not go as far as Mr H would like. I want to reassure him that I've read everything he's said and I've thought carefully about what's happened. But, having done so, I'm satisfied that the redress I'm awarding is fair and reasonable in the circumstances of the complaint.

Putting things right

To resolve the matter, esure must:

- pay Mr H £500 compensation, to be reduced by any amount it has already paid, and
- Change the record of the claim to non-fault on any internal and external databases.

My final decision

For the reasons I've given, I uphold Mr H's claim about esure Insurance Limited and direct it to put things right as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 30 October 2024.

Chris Woolaway
Ombudsman