The complaint

Mr C complained about esure Insurance Limited's sale and valuation of his car in a claim on his motor insurance policy.

What happened

Mr C's car was damaged by a third party while it was parked. Mr C didn't claim under his policy with esure. He instead claimed direct against the third party's insurer. So esure shouldn't have been involved. But due to esure's mistake, esure became involved. They decided that Mr C's car was uneconomical to repair, and asked their salvage agents to sell his car, without giving him the opportunity to buy it back. esure offered him £1,750 for his car's market value, less his policy excess of £750.

Mr C complained to esure. They accepted that they hadn't given Mr C the option to have his car back, apologised and arranged to pay him £150 in compensation. They also said they'd ask their engineers to look at his car's valuation again and contact him about it, but they didn't do so.

Mr C remained unhappy and so he brought his complaint to us. Mr C's car was a nine-seater for his family of seven. He said he couldn't afford to buy a same sized car with what esure had offered and it had made life very inconvenient for him and his family, and he'd been left out of pocket. He'd wanted to get his own car back but esure's salvage agents had already sold it.

The investigator recommended that his complaint should be upheld. He thought that esure hadn't shown sufficient evidence that their valuation was fair and so they should pay him enough to buy a similar replacement vehicle, increase their compensation, and recover his policy excess from the third party insurer on his behalf.

esure didn't agree and so I've been asked 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.

Mr C reported the incident to esure, but he told them that he didn't want to claim on his policy with them and was instead dealing directly with the insurer of the third party who had damaged his car. It's clear from esure's file notes that esure knew that.

However esure instructed their salvage agents to value Mr C's car and sell it. Due to esure's intervention action here, and that esure had offered Mr C settlement , the third party insurer would no longer deal with Mr C's claim. esure accepted they instructed his car's sale by mistake and so they dealt with it as a claim on Mr C's policy.

Valuation

esure thought they'd given Mr C his car's market value as required under Mr C's car insurance policy. It says on page 45 that market value is the amount Mr C could reasonably have expected to sell his car for on the open market immediately before the accident or loss. esure's assessment of that 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 and the value is based on research from named motor trade guides.

Our approach regarding complaints about car valuations is that we don't decide what the market value of a car is; we merely consider whether or not the insurer has reached a fair and reasonable amount in all the circumstances .This involves having regard to the valuations in the motor trade guides. The prices in those guides are linked to likely monthly nationwide sales figures and although valuing a car is not an exact science, we believe they give a reasonable and independent guide and take account of a number of factors including mileage, condition, and any extra features.

We tend to take the guides as a starting point. However we also take account of any other evidence provided by both sides. That evidence could include advertisements for the sale of similar cars, and the car's condition at the time of the incident.

Mr C's car was about 18 years old with about three hundred thousand mileage. esure said they looked at three trade valuation guides in assessing his car's market value, but none provided a result. That was because of his car's age and high mileage.

esure did manage to achieve a valuation result but only by reducing the mileage. They then lowered that valuation result slightly to account for the mileage reduction. So they offered Mr C £1,750, less his policy excess of £750. esure didn't show us any other evidence in support of their valuation. And despite their offer to Mr C in their final response letter, to have their engineers speak to Mr C about their valuation, esure didn't do that. Nor I have I been shown that esure considered any adverts.

Mr C said he couldn't replace his nine-seater car in the marketplace for that. He showed us adverts for other nine-seater cars, including the result of a search he'd done on an online sales website for any nine-seater car at the lowest price, without specifying any mileage or make of car. But he still couldn't find one he could buy with what esure had offered him. So he felt that esure's settlement amount wasn't fair market value. He wanted esure to show that what they had offered him could buy him another nine-seater car.

The investigator did an analysis of multiple car sales media for any available nine-seater vehicles. He couldn't find one of any age or mileage for less than £2,500. The same make as Mr C's car wasn't available, so he had to look at other makes with as comparable age and mileage as possible. So he took two such vehicles, one of which was £3,495, and the other £2,500, and considered it would be fair to average those. That gave £2,997.50.

esure didn't agree that Mr C's car was comparable with those two cars as regards their make, brand and longevity. But they didn't send us an independent expert report to that effect. However as I've said above, our role is to not to consider the correct market value but consider whether or not the insurer has reached a fair and reasonable amount in the circumstances. The reality here is that there were no available direct comparators to Mr C's car. So having reviewed the above, I think they were as comparable as possible, and the investigator's approach is reasonable.

esure showed us photographs of the car and said that it had been in poor internal condition with more wear and tear than one would expect in a family car and that might suggest usage more than just domestic. However I think it's condition is not necessarily inconsistent for a car of that age used by a family of seven, and esure haven't shown me persuasive evidence of any other use.

I look at esure's valuation against the background that Mr C hadn't wanted esure to be involved in the matter at all. He'd been dealing with the third party insurer, but esure's involvement and actions prevented any further input from them and brought that to an end.

Overall, I don't think that it was fair for esure to rely on the guides alone and they haven't produced enough evidence to justify their valuation. Given all of the above, I don't think how esure have assessed market value is fair and neither was the amount they arrived at.

Mr C thinks that esure should compensate him for not giving him the chance to get back his car. Insurers can allow this, and we generally think they should. esure had agreed that they were wrong not to give Mr C that chance. But esure have recently decided that their agreement was a mistake too. They've since said that they wouldn't have been able to sell Mr C's own car back to him at all. This was because esure's salvage agent had deemed his car a Category B salvage which meant that it couldn't be put back on the road and could at most be sold for parts. So in their view Mr C wouldn't have been able to repair it and keep on using it anyway.

But even if that's so, I don't think that's the crux of the matter. It's that because of esure's actions, which were contrary to Mr C's known wishes, the third party insurer wouldn't deal with Mr C anymore and so Mr C ended up having to claim through esure. That meant he's no option but to deal with their settlement, which doesn't allow him to afford a similar replacement car. And as I've said above, I think that a market value of £2,997.50 is reasonable.

Compensation

It's unfortunate that Mr C's car was damaged through no fault of his own, and it's not esure's fault either. But it is esure's fault that they involved themselves in the matter against Mr C's wishes, even if that was a mistake.

Mr C has been without a suitable car for almost a year. He's had to borrow a car, then borrow money to buy another car. But even so he's only been able to afford to buy a five seater and not the nine-seater that he had. This meant that his family have been unable to go anywhere all together as a family for almost a year. Or they've had to make two separate trips.

I can see that this must have affected his family badly, caused real inconvenience and required extra effort from him. I can see that this has been stressful for him, and that dealing with the issue wasted his time.

So I think that this does go beyond the levels of inconvenience which one might reasonably expect because of such an incident and claim. And so I think esure should offer Mr C £500 compensation, which is in line with our approach. If esure have already paid him the £150 they offered, they can deduct that from the £500.

Policy excess

The policy excess is something a policyholder has to pay on a claim, but they can often recover it from the third party insurer. As the investigator explained, some insurers often do ask the third-party insurer for the excess at the same time as requesting their own costs, but they're not required to do that. esure said they didn't recover Mr C’s excess from the third party insurer because Mr C didn’t have legal expenses cover under his policy to fund that.

However Mr C told us that the third party insurer are waiting for esure to request the policy excess amount from them. I think that esure should do that then reimburse Mr C that excess direct. This is because if it hadn’t been for esure’s unwanted involvement , Mr C would have continued to claim against the third party insurer direct. So he wouldn’t have had to claim under esure’s policy and so wouldn’t have had any policy excess to pay.

My final decision

For the reasons I’ve given above, it’s my final decision that I uphold this complaint and I require esure Insurance Limited to do the following:

- Pay Mr C £2,997.50 for his car, less excess and an amount they have already paid him for his car’s market value. They should add interest on that market value amount from the date of claim until the date of settlement at 8% a year simple.
- Contact the third-party insurer to request Mr C’s policy excess from them and reimburse that to Mr C.
- Pay Mr C £500 compensation in total for the distress and inconvenience caused by their actions, less any amount of compensation they have already paid him.
- esure must pay the compensation within 28 days of the date on which we tell them Mr C accepts my final decision. If they pay later than this they must also pay interest on the compensation from the date of my final decision to the date of payment at 8% a year simple.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr C to accept or reject my decision before 27 November 2024.

R. Scott

Rosslyn Scott
Ombudsman