

## **The complaint**

Mr B complains about esure Insurance Limited's handling of a motor insurance claim.

## **What happened**

Mr B held a motor insurance policy with esure. His car was damaged in a flood and he made a claim. esure agreed the claim was covered, and said Mr B's car was a write-off. It offered a settlement of £650 before the policy excess was applied. It said the market value of the car was £860 but a deduction of £210 should be made because there was pre-existing damage to the car.

Mr B complained to esure. He was unhappy about the settlement offered, that esure had retained the full premium when the policy was cancelled and about the customer service he'd received during the claim. As he didn't accept esure's response to the complaint, he referred his complaint to our service.

In its response to Mr B's complaint, esure acknowledged its handling of the claim could have been better. It agreed to waive the £35 policy cancellation fee. Our investigator thought esure could fairly retain the full premium, but it should pay £100 compensation to recognise the poor service Mr B had received. He also thought the settlement offered by esure was too low, particularly saying it was unfair to make deductions for the condition of the car before the claim.

esure accepted the compensation should be paid but not that it should make any further settlement of the claim. It asked for an ombudsman's decision. Mr B didn't respond to our investigator's view.

## **My provisional decision**

I issued a provisional decision on this complaint. I agreed that esure should pay the £100 compensation suggested but didn't think the settlement amount should be increased. In my provisional decision, I said:

I'll initially address the two elements of the complaint which haven't been disputed by esure following our investigator's assessment, these being the retention of the premium when the policy was cancelled, and the compensation for the poor service received by Mr B.

In terms of the premium being due when the policy was cancelled, Mr B says it's unfair that the full premium was charged, even though the car was insured with esure for less than six months before he made the claim.

The policy terms and conditions say, where a policy is cancelled, *"We will not refund your premium if you have made a claim or you have been involved in an incident."* This is a common condition in insurance contracts, where the full premium is due if a claim is made, and it isn't unfair. I'm satisfied the condition is clearly stated in the terms and conditions and that it's fair for esure to refer to it and decline any refund of Mr B's premium as a claim had been made.

I'm aware one of the reasons Mr B wanted to cancel the policy was because of the poor service he received when he made the claim. esure acknowledged this by waiving the usual £35 cancellation fee. However, just because of the poor service, I don't think it's reasonable to expect esure to refund any of the premium. I think the waiving of the fee went towards recognising that, but the full premium was due as a claim had been made.

In terms of the poor service, I'm aware the claim took some time to resolve and that when Mr B tried to speak to esure he was unable to because of the way its systems were set up and call wait times. esure's acknowledged the service provided when Mr B made the claim wasn't up to the required standard and agreed with our investigator that it should pay £100 to recognise this. I agree this is a fair amount. It appropriately recognises the distress caused by the time taken to resolve the claim and the inconvenience caused when Mr B made multiple unsuccessful attempts to speak to esure about the claim.

I'm also aware that Mr B wanted his no claims discount to be reinstated. However, given the nature of the claim, in that there was no third party to pursue for its costs or who could be held liable for the claim, I think it's fair that esure has recorded a claim against Mr B and that means his no claims discount would be affected. He hadn't purchased the optional cover to protect his no claims discount when he took out the policy.

Turning to the matter of the valuation of the car, the terms and conditions say that esure will pay the "*market value*" when a car is written-off. The market value is defined as:

*the amount you could reasonably have expected to sell your car for on the open market immediately before your accident or loss. Our assessment of the value is based on cars of the same make and model and of a similar age, condition and mileage at the time of the accident or loss. This value is based on research from motor trade guides including: Glass's, Parkers and CAP. This may not be the price you paid when you purchased the car.*

Due to the age of the car, only one motor trade guide gave a value for Mr B's car when esure assessed the claim. This gave a valuation of £860, which was the basis of the settlement offered by esure. I'm satisfied this was based on the correct information about Mr B's car and it was reasonable for esure to rely on this. I'm aware that when our investigator looked into the complaint, the same trade guide gave a slightly higher valuation of £910 for the car. The trade guides regularly update their algorithms and data sets, but I consider it's fair for esure to have relied on the valuation it obtained of £860 as that was carried out at the time of the claim, and it wouldn't be fair for me to require it to use a different figure, obtained later, unless there are reasons why its final offer was unreasonable.

esure's final settlement offer was £650 (minus the policy excess), as it deducted £210 from the £860 valuation because of the condition of Mr B's car at the time of the damage. It said there was damage in the form of dents, cracks and scratches to the bumpers and wheels, as well as evidence of poor quality previous repairs to the car. I'm aware Mr B disputes this, saying there hadn't been any incidents or damage to the car in the 3 years he'd owned it before the claim.

I've reviewed photos taken by esure when it was assessing the claim and am satisfied these do show there is damage to the bodywork of the car, and that this wouldn't be consistent with damage caused by flooding. On that basis, I'm satisfied there was some pre-existing damage to the car at the time of the claim. I don't need to determine how or when that did occur.

However, I've considered whether it's reasonable for esure to make a deduction from the settlement because of this damage. In doing so, I'm mindful that Mr B's car was over 20

years old at the time of the claim. As that's the case, I think it's reasonable to say that some minor, cosmetic damage to parts such as the bumpers and wheels would be expected.

Looking at the photos, I think much of the damage noted by esure would fall into this category. I don't think that damage would have a noticeable impact on the value of the car, considering its age and mileage.

The bigger issue, for me, is that the photos do show that repairs to the bodywork have previously been carried out and I do agree with esure that there's evidence these repairs weren't of the required quality. The photos show differently coloured and textured areas of bodywork around a wheelarch.

I think that poor quality repairs would have an impact on the value of the car. The poor quality finish could mean that other, non-visible elements of a repair weren't up to the required standard and someone purchasing the car would reasonably reduce their offer because of that. Our general approach to these situations is to look at the cost of repairing the pre-existing damage and then consider whether the deduction proposed by the insurer is reasonable. esure's said repairing all of the pre-loss damage would cost more than £1500.

However, as I've said, not all of the pre-existing damage should be taken into account when considering a reasonable deduction. However, I do think a £210 reduction for the poor quality repairs is reasonable. It represents less than 15% of the total repair costs which were estimated and so would seem to be a relatively minor deduction in the context of the total repair cost.

### **The responses to my provisional decision**

Both esure and Mr B responded to my provisional decision. They both accepted the outcome and made no further points they wanted to have considered.

### **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.

Even though both parties have accepted my suggested outcome and the reasons for it, I've considered my findings and the reasons I gave. I remain satisfied that this is a fair outcome. esure should pay Mr B £100 to recognise the poor service he received, but the offer it made to settle the claim was reasonable.

### **My final decision**

I uphold Mr B's complaint in part.

esure Insurance Limited must pay Mr N £100 compensation. It must pay this within 28 days of us telling it Mr B accepts our decision. If it doesn't, it must pay simple interest at a rate of 8% on this amount from that date to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 5 November 2024.

Ben Williams  
**Ombudsman**