

The complaint

Mr G and X were unhappy with the delays to their claim and the cash settlement they were offered by esure Insurance Limited (“esure”) under their home insurance policy.

What happened

Following a leak, esure accepted a claim made by Mr G and X for repairing the resultant damage to their home. The claim commenced in October 2022 after Mr G and X had managed to fix a long-standing leak which had been difficult to detect.

Following validation of the claim, esure wanted to cash settle the claim and it offered around £1,200 in December 2022. Without hesitation, Mr G and X rejected the offer as they knew they wouldn’t be able to get the work completed for that cost. esure asked Mr G and X to get two quotes for the scope of work. Mr G and X provided three quotes in January 2022 ranging between £6,000 and £9,000.

A month later, esure asked for a breakdown of the lowest quote, which was provided promptly by Mr G and X. Around April / May 2023, esure’s appointed contractor started pushing the option of it doing the work itself. However, due to the delays and difficulties Mr G and X had experienced with the contractor, added to the poor online reviews they’d observed about their work, Mr G and X were reluctant to follow this option.

Following more challenge by Mr G and X, the appointed contractor increased its cash settlement offer to around £4,000 plus VAT in July 2023. Mr G and X were still unhappy with this, as it was well below their lowest quote, but offered to settle at £4,642 plus VAT as a compromise, allowing them to move forward. esure paid this but withheld the VAT element and deducted the excess from the policy.

Mr G and X didn’t feel they could start the work without the full payment with VAT. Around, November 2023 it provided an updated quote from its contractor, which had increased from £6,000 to £7,488. Little movement in the claim happened beyond this point.

esure said its contractor could’ve handled things better and it has recognised its failings, so have paid £150 in compensation for the distress and inconvenience caused. However, esure said as it had offered to do the works itself and could do them for less than the cash settlement it had already paid, that it thought it had met the terms of its policy.

Our investigator decided to uphold the complaint. She thought esure had caused significant delays in the process, so she increased the compensation to £500 for distress and inconvenience (£350 more than had been paid). She thought esure were entitled to do the work, so didn’t increase the settlement offer, nor did she think it was wrong it withheld the VAT element of the settlement. Both parties disagreed, so the case has been referred to an ombudsman.

My (first) provisional decision

I made a provisional decision on this on 26 September 2024. I said:

"It's clear from reviewing this complaint that an impasse has been reached and both parties have entrenched views. Having reviewed the details and timeline of events, I do uphold this complaint. I'll explain why. However, I'd also like to point out, because of the entrenched views, I think it's unlikely neither party will be totally satisfied with my conclusions. But, I have tried to reach what I see as a fair and reasonable resolution to this complaint to allow both parties to move on from the claim. In other words, there is an element of compromise in my thinking.

I can see esure did offer to do the work themselves via its contractors. However, I think it did this far too late in the process. The difficulties Mr G and X experienced with esure's contractor was enough for them to decide they did not want esure's contractors in their house again. Mr G and X didn't do this lightly. Not only did they use their own observations, but they also researched what other customers thought of their work. So, by offering to do the work later to me is irrelevant. esure should've offered this at the start of the claim if it was serious about it – that way the claim may have been resolved quickly. As I don't think this option was presented in a timely way, I expect any settlement to be at market rates that are accessible to Mr G and X.

There is a difference in views on whether the VAT element of the settlement should be paid up front or after the work has been invoiced. I've read esure's view on the matter and their technical arguments in relation to the UK's tax regulations. Mr G and X have said they needed the full settlement, incl. VAT upfront before authorising works with contractors.

I'm not particularly persuaded by either of these points. I wouldn't expect Mr G and X to pay the full costs of any works upfront. It's normal to pay material costs upfront, but it's also usual for the payer to keep back a chunk of payment until they have confidence in the final works.

Likewise, esure weren't happy to pay the contractor the VAT element direct, which was one option suggested to them. Our service thinks where a consumer has an estimate with a valid VAT number and we're satisfied they're likely to use that contractor, we'd usually expect the insurer to include VAT in the cash settlement. I've checked the quotes provided by the cheapest contractor, and it is provided with a valid VAT number. Therefore, I think any settlement should include the VAT element. I think this also helps close out the claim allowing the parties to move on.

Mr G and X have been crystal clear they are not willing to entertain esure's contractor completing the works. I think this is reasonable for the reasons I've set out. Therefore, I need to reach a fair decision on what I think a reasonable settlement is. This is difficult and this is where compromise comes to move this complaint to a sensible resolution.

My reference points are –

- Three quotes initially received between £6,000-£9,000 (incl. VAT) from Feb 2023*
- Updated quote from cheapest supplier £7,488 (incl. VAT) in Oct 2023*
- Mr G and X put forward a compromise settlement offer of £4,462 plus VAT in July 2023 to move the complaint forward.*

esure has challenged many of the costs in the detailed breakdown provided by Mr G and X's lowest quote. esure has compared the unit prices with online sources showing what consumers should expect to pay for work. I am persuaded by this high-level analysis. I'm also concerned by the same supplier increasing its costs by around 25% in an eight-month period. Whilst, high inflation has been experienced globally in recent years, the increase applied by Mr G and X's contractor seems unreasonable.

So, I think the fairest way forward is to return to the settlement figure Mr G and X were happy to agree to in July 2023 (which they put forward). This was £4,462 plus VAT. However, recognising Mr G and X have been without this money and to take account of inflationary pressures, I intend that esure add 8% simple interest to this figure per annum (from the date of the original quote – in Feb 2023 to when it will be paid in Oct 2024, i.e., 21 months), which has the effect of increasing the settlement by £625 to £5,087 plus VAT. If the payment isn't made in October, esure should add on a further £30 each month to the settlement value until it is paid.

I don't think esure or its contractors have handled this complaint effectively. Its initial cash offer was derisory. It could've offered to do the work much earlier. It could've done more to resolve the dispute on the settlement. esure and its representatives as insurers should be experts in managing claims. It does it every day. Whereas, Mr G and X will have limited knowledge, so they were reliant on the expertise of esure. When Mr G and X needed the help most, esure failed to help them. I think this is extremely poor service.

Mr G and X have lived in difficult conditions for a long time. This would be distressing for anyone, and Mr G and X have shared the impact it has had on them. I'm persuaded this impact was real. It has gone on a very long time. They've been considerably inconvenienced in not only chasing up constantly on the claim, but also in their living conditions. Therefore, I intend to award £800 due to the long-standing nature of this claim.

This claim needs resolving, and I think the compromise I have reached is the fairest route to allow both parties to move forward".

Responses to my provisional decision

Mr G and X accepted my provisional decision. However, they did clarify some points. Mr G and X said:

"On...the decision it states that the July 2023 settlement offer was £4462 + VAT. However, the figure was £4,642.46 + VAT. Therefore the 8% per annum for 21 months also stated on page 3 would be £649.94, making the settlement £5,292.40 +VAT.

It is stated that esure have paid £150 in compensation. However, no compensation has been paid yet. Therefore, no deduction required from the compensation of £800 detailed on page three".

Mr G and X also asked if VAT was applicable to the £30 a month stated in my decision.

esure didn't accept my provisional decision. It asked me to alter some wording before publishing my final decision.

esure said "I'm sorry but I can't see the rationale for the request to cash settle the claim at £5,087 plus VAT, as this includes 8% interest. Interest is paid when a consumer is deprived of funds, however in this case the payment was made to them on 4th August 2023. We can't pay interest on funds the consumer has as I'm sure you'll appreciate. Your outcome concludes essentially that the agreed figure of £4,462 plus VAT was fair so I can only therefore conclude that if the consumer has chosen to not have the works carried out then living in difficult conditions as you're put it as a choice they have made. Essentially, they've had the funds, but chosen not to have the works carried out.

In terms of the VAT element, we can't agree this – it is not unheard of for someone to get a quote from a VAT registered contractor, only to have the works carried out by someone else – in this instance we'd have facilitated tax evasion in the simplest terms. I ask what your

position would be were we to pay the VAT but the consumer not to have the works carried out. Would you be agreeable to the consumer providing us with a VAT receipt when works have been carried out for us to satisfy ourselves that the VAT was paid, as realistically we'd need to recover the funds if they were not. I think this is the only situation where we could consent to paying VAT in advance.

Turning now to the compensation element, £800 is a very high amount of compensation to pay and I can't help but think that some elements of the outcome are based on your belief that the consumer did not have the funds, and therefore had to live in difficult conditions, however, this is not the case. Put simply, your outcome indicates the settlement was fair, yet also conclude that we're responsible for how the consumers have been left feeling. As I said in my earlier emails, we could have handled things better, but the crux of the issue is largely the excessive estimates provided by the consumer, some of which are more than double what the consumer later agreed was fair".

My (second) provisional decision

"To clarify, the settlement Mr G and X agreed to receive was £4,642.46 + VAT. Mr G and X said it hasn't received any compensation yet. If that's correct my decision allows for this, as it states the total amount of compensation that should be paid, less any amounts already paid.

esure have pointed out to me, it paid Mr G and X the agreed settlement amount, excluding the VAT element on 4 August 2023 and deducted the policy excess. This amounted to £4,642.46 less £450, so Mr G and X have received £4,192.46.

esure have pointed out that as Mr G and X haven't been without this money, then it isn't appropriate to add 8% interest. I think this is reasonable. When I wrote my provisional decision I hadn't realised this money had been paid. Mr G and X had this money and could've put it in a savings account until they were ready to do the work. And I don't need to ask esure to pay £30 a month any longer as the settlement has been paid.

The VAT element remaining is $£4,192.46 \times 20\% = £838.49$, that still needs paying. esure are uncomfortable with paying this for the reasons it has set out. I think the proposal it has put forward is a fair one. It will pay Mr G and X this amount, however, on completion of the works Mr G and X must provide esure with a VAT receipt so esure can satisfy itself VAT was paid. If the VAT receipt(s) aren't presented within one month of the work been completed, esure are entitled to recover these funds back from Mr G and X. I intend this as a fair resolution and compromise.

esure has challenged the level of compensation I've awarded. However, I don't intend to change this. I think the claim has been long lasting. I think esure offered a very low offer of settlement early on. esure are the experts in claims management and should be proficient at managing difficult situations. I think it could've done more to resolve this claim.

Mr G and X have explained they couldn't get the work done until all the money was received. I think esure could've offered to pay the VAT as it has done now and asked for evidence it had been paid. I think this would've provided a sensible compromise to the dispute.

Without changing the meaning of the sentence, I've amended the words in one sentence of my provisional decision to allow esure to be more comfortable with the publishing of the decision.

As I've changed my decision slightly, I'm issuing a further provisional decision. As the changes are small, I'll only allow one week for further responses, so the complaint can be finalised promptly".

Responses to my second provisional decision

esure welcomed some of the changes made in my provisional decision but were disappointed with the level of compensation I awarded. It didn't provide any new information.

Mr G and X disagreed with my second provisional decision. They would like to see the 8% interest reapplied to my findings, as they feel they've been deprived of these funds. They said esure left them with the impression they needed to see the complaint process through to its conclusion before they could start work.

Mr G and X remain unhappy with esure's requirements around VAT. They've said the VAT element should be applied before the excess payment is deducted. They've also confirmed the money they've received hasn't been held in a savings account.

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.

Whilst I appreciate both views received, I don't feel I've received any new information that justifies changing my decision. I think it's also worth reminding what I said when I started my decision. I said:

"It's clear from reviewing this complaint that an impasse has been reached and both parties have entrenched views. Having reviewed the details and timeline of events, I do uphold this complaint. I'll explain why. However, I'd also like to point out, because of the entrenched views, I think it's unlikely neither party will be totally satisfied with my conclusions. But, I have tried to reach what I see as a fair and reasonable resolution to this complaint to allow both parties to move on from the claim. In other words, there is an element of compromise in my thinking".

My decision is exactly this, a compromise to allow this to move forward. I think in the circumstances of the claim, it's the fairest solution to both.

My final decision

My final decision is that I uphold this complaint. I intend esure Insurance Limited:

- Cash settle the VAT element of the claim (£838.49), but within one month of the completion of the works, Mr G and X must furnish esure with a VAT receipt. Failure to do so, will allow esure rights to recover this money.
- Pay £800 compensation – for distress and inconvenience (any payment for compensation already paid should be deducted from this).

esure should ensure these payments are made within 28 days of Mr G and X accepting my decision. If esure don't comply, then 8% interest pa (simple) should be added until the funds are paid.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G and X to accept or reject my decision before 19 November 2024.

Pete Averill
Ombudsman