

## **The complaint**

Miss G has complained about how esure Insurance Limited handled her two claims under her motor policy.

## **What happened**

Miss G was involved in an accident in January 2023. The other driver was found to be at fault and esure was able to get reimbursement for its outlay in repairing Miss G's car after the accident. However, Miss G said she also suffered personal injury for which she believes esure should pay for too as she has comprehensive cover under her policy.

Esure said Miss G didn't take any personal accident or personal injury cover in her policy for this particular policy year. However even if she had it doesn't pay out for personal injuries it merely pays out for things like a loss of an eye or loss of limb which isn't the case here. Esure said any personal injury caused in an accident like this is classified as an uninsured loss. So, a claim in Miss G's case needs to be made to the other driver. Esure said it passed Miss G details of its legal agents along with passing Miss G's details to these agents too and that is all it would ever need to do.

When Miss G's car was being repaired following this accident, Miss G was given a courtesy car. Unfortunately, after Miss G had parked it in a legitimate car park in March 2023, some vandal or thieves stripped the courtesy car. As the courtesy car was covered by her policy with esure, Miss G made a claim for damage to the courtesy car.

Esure said this had to be a second claim on her policy. And given the vandals or thieves were never identified, esure wasn't able to recoup its losses for the courtesy car, so that meant it was a fault claim/claim unpaid on Miss G's insurance record. Miss G disputes that this is either fair or correct.

As esure wouldn't change its stance, Miss G brought her complaint to us. Ultimately the investigator didn't uphold it. As Miss G didn't agree her complaint has 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.

Having done so, I'm not upholding this complaint. I'll now explain why.

### *Personal injury issue*

Miss G's policy with esure covering both of these claims started on 21 September 2022 to 21 September 2023. In the schedule, it clearly shows personal injury benefit was not taken by Miss G as an additional benefit.

The additional benefit detailed in the policy document is called personal accident benefit. So, if Miss G had opted to take any optional benefit of this sort, it would have been this benefit. It merely pays out on death, the permanent loss of sight in one or both eyes, or the loss of one or more limbs. The amount payable would be listed in the schedule.

There is no evidence to show Miss G met any of these conditions as a result of any injury sustained in the accident in January 2023. So even if she had taken this additional cover, it wouldn't have paid her anything most likely.

In any event the more normal personal injuries suffered in any car crash are called 'uninsured losses'. No motor insurance covers such injuries for their policyholders. It's simply something not covered for the policyholder. But when another driver is responsible for causing the crash, that other driver's insurers can be liable to pay any personal injuries caused to the people they had crashed into, along with any other 'uninsured losses'. So effectively if Miss G wanted to claim personal injury from the other driver, she has to make a claim to that other driver's insurers. She has three years from the date of the accident to do so.

As Miss G told esure she had suffered personal injury, it told her to contact its legal agents who could have advised her, and it told those agents Miss G's details. Esure didn't have to do anything further though under the terms and conditions of the policy. And it's not responsible for anything these legal agents did or didn't do either. So, it remains that if Miss G wants to claim personal injury from this other driver, she should make her claim to the other driver's insurers before the expiry of three years from the date of the accident.

So, I don't consider esure has done anything wrong here. At all. There is no evidence esure logged anything as 'non-injury' anywhere as Miss G has alleged. Indeed, all the evidence in esure's file shows esure clearly were aware she had some personal injury. And even if it did mention 'non injury' anywhere, it wouldn't matter as Miss G is still entitled to make her claim within three years of the accident date to the other driver's insurers. And that is something for her to do, there is no duty for esure to do it on her behalf. It properly helped her by passing on its details of its legal agents but other than that it has no further duty or responsibility on this issue.

### *Courtesy car issue*

Turning to the issue with the courtesy car, this loss or damage was caused by the vandal or thief who stripped the car in the car park. This courtesy car was also covered by Miss G's policy with esure.

Sadly, Miss G didn't know who did this to the car. However, she is upset this claim is marked as a fault claim/claim unpaid on her insurance record as esure couldn't get any reimbursements for its costs in relation to the damage on the courtesy car.

Miss G is of the view that as she reported it to the police and obtained a crime reference number plus there was CCTV in the car park that then she shouldn't be penalised. More so since esure didn't follow this up.

However, esure says the CCTV wouldn't have given them the name and address of the vandal. There was no evidence the police knew who they were either. So, there was nothing for esure to investigate. Even if the identity of the vandal were known it's not at all clear that the vandal would have been able to reimburse esure all its costs, and unless all of those costs are reimbursed the claim remains as a fault claim/claim unpaid against the policyholder.

Also, under the policy esure is perfectly entitled to decide how it deals with any claim as it says the following in the general conditions section:

*'5. Claims Procedure*

*You must not admit liability for, or negotiate to settle, any claim without our written permission. We have full discretion in the settlement of your claim or any legal proceedings which may arise and we may take over, defend or settle the claim in your name for our own benefit. You and anyone covered by the policy must provide all the information, documentation and help we need to do this.'*

This clause is in every motor policy, so I don't find it unusual or significant. Motor insurers deal with claims daily and provide indemnity to other parties if their policyholder has caused an accident. They are therefore considered best placed to make decisions on claims too. Therefore, the regulator permits insurers to have total control over claims in this way.

Insurers obviously have to use this clause reasonably. Here I consider esure was reasonable as first it like Miss G had simply no idea who stripped the courtesy car as in what was their name. And secondly it would be highly unlikely any vandal would have been able to reimburse esure its costs in relation to the courtesy car in any event. So, it would have still been a fault claim/claim unpaid on Miss G's insurance record.

*Conclusion*

Therefore, I consider esure didn't do anything wrong as regards Miss G's personal injury and it didn't do anything wrong as regards marking the claim as a fault claim/claim unpaid on Miss G's insurance record either.

**My final decision**

So, for these reasons it's my final decision that I don't uphold this complaint

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss G to accept or reject my decision before 3 January 2025.

Rona Doyle  
**Ombudsman**