

The complaint

Mr P complains about the decision of esure Insurance limited to accept liability on his behalf for a claim made against his motor insurance policy.

What happened

Mr P was involved in an accident in which his car hit the back of another after it entered his lane. Mr P argued that the other driver caused the accident by braking suddenly. When considering Mr P's dashcam evidence esure decided to accept liability on behalf of Mr P. It explained that he had time to avoid the collision but failed to do so. Mr P disagreed and made a complaint. He was awarded £50 compensation by esure for some delays in dealing with the complaint but it maintained its position regarding liability.

Mr P complained to this service. He was unhappy at the decision and the impact it would have on his future insurance premiums. He maintained that the other driver was at fault and that esure had misinterpreted the video evidence. He felt that mistakes by esure and delays in responding to his concerns cast doubt over its decision making.

Our investigator explained that esure had the right, under the terms of his policy, to settle the dispute as it had. He also explained that esure had made a further offer of £100 for additional delays since it had sent its final response letter to Mr P. The investigator felt that a total award of £150 was a fair one.

Unhappy with that outcome Mr P asked for the matter to be considered by an ombudsman. He felt that the offer wasn't sufficient in light of the poor service he had received.

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.

I am in agreement with the outcome suggested by the investigator. That means that I am partly upholding Mr P's complaint by awarding him a total of £150 compensation for the mistakes made by esure. I do not agree with Mr P's assertion that esure should change its decision on liability for the accident. While I know that he will find that frustrating I believe that decision is justified by the circumstances of this case and will explain why.

Mr P knows that his insurance policy allows esure to settle liability for the claim as it deems appropriate. This is a common policy term which allows an insurer to use its commercial discretion to make a decision based on the facts of a claim to determine the right outcome and having regard to the costs and uncertainty of potential court proceedings where liability is disputed. In this case, esure have come to the conclusion that Mr P could have avoided the collision with the other vehicle. My role is not to decide what the correct outcome on liability is, but instead to consider whether esure have acted fairly and considered all of the evidence in coming to the conclusion that it has.

I've seen the dashcam footage which shows the collision and I've seen Mr P's remarks

about what he feels is esure's misinterpretation of the video. He believes that esure wrongly suggested that a vehicle's brake lights were lit earlier in the video than he believes is the case. I agree that the evidence for that claim by the case handler is weak. But I don't believe that this is a compelling factor in the decision for deciding liability. Mr P's vehicle hits the back of another which always makes it difficult to challenge liability. But while that vehicle had pulled into a relatively small gap between Mr P and the car ahead I think that esure is not being unfair in suggesting that Mr P had time to adjust sufficiently then, and later when the traffic slowed, to avoid a collision. I don't believe that a potential mistake in whether another vehicle in the queue had braked a little earlier negates esure's view that Mr P was at least partially to blame for the collision. Whether a driver is held wholly or only partially responsible for a claim there is little or no change to the impact on his record and the effect on future premium pricing. In all of the circumstances of this case I think that esure was not acting unfairly or unreasonably in deciding to accept full liability against Mr P for the accident and resulting claim.

Mr P was offered £50 by esure for the delays in handling his complaint. During our consideration of his complaint esure offered an additional £100 for further delays in replying to Mr P after he challenged the final response letter. Mr P raised this issue in his complaint to this service and has done so during the time we have been considering it. It appears that esure has explained that it had overlooked replying and so made the additional offer. To be clear, this offer is for delays since the original complaint was raised with esure. In making the offer it has allowed the later problems to be included in this complaint so I am happy to include it in my consideration. As a result, my decision is that I require esure to pay Mr P the additional £100 in compensation, making a total of £150. This award is in line with our typical position on delays of the kind seen here. I don't think that any further compensation is appropriate regarding esure's handling of the liability decision.

Putting things right

A total of £150 compensation should be paid to Mr P for the delays in replying to his communications. I don't require esure to take any action regarding the decision on liability.

My final decision

My final decision is that esure Insurance limited should pay compensation totalling £150.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 14 March 2025.

John Withington
Ombudsman