

## **The complaint**

Mr K complains that esure Insurance Limited have been slow to progress his claim following an accident, which meant that he was out of pocket for his £850 excess and car hire charges for a long period. He's also unhappy that he has been paying higher premiums because of the outstanding claim.

## **What happened**

In November 2021 Mr K had an accident in which the third party was at fault. He provided esure with full details of the other driver.

Mr K had his car repaired, and paid out £850 for an excess, and £756 for car hire which esure weren't able to reimburse him until the claim settled, and the delay in progressing the claim impacted him as he was out of pocket for longer.

Esure accept there has been some delay in the recovery process, and have offered Mr K £200 to recognise this. They have also made a proactive offer to refund Mr K's £850 excess even though they have now had to abandon recovery action.

One of our investigators has looked into Mr K's complaint. He thought that esure's offer was fair.

Mr K doesn't agree with the investigator's findings and so the case has come to me to review.

## **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 upholding this complaint and asking esure to pay the offer they have made. I'll explain why.

Following the claim in 2021 Mr K wasn't happy that esure's network repairers couldn't do the repair before Christmas, and so he asked if he could use his own repairers. The repairs were completed by Mr K's own garage in April 2022. His repair bill was covered by esure, but he had to pay the excess of £850 to the garage. It is normal for consumers to have to pay the excess when a car is being repaired outside the insurers network.

As Mr K wasn't using a network repairer he also wasn't eligible for a courtesy car, and so he arranged a hire car for seven days while the repairs were being done and that cost him an additional £756.

I can see from the claim notes that in May 2022 esure advised Mr K that he wouldn't get his excess or any hire car costs back until it was recovered from the third party.

In November 2022 Mr K complained about the delay and the failure to return his excess. A final response letter was issued to Mr K on 1 December 2022 agreeing that aspects of his claim were not handled well and he hadn't been updated as they would have expected. He was awarded £150 by way of an apology for the poor service. Esure also explained in December 2022 that they couldn't close the claim and refund the excess until the third party insurer accepted liability and settled.

esure continued to pursue the third party for the reimbursement of the excess along with their own costs, but after not receiving any satisfactory response, on 16 June 2023 they instructed their solicitors to commence legal proceedings against the third party.

However, after any further lack of success, in November 2024 legal proceedings were abandoned on the advice of esure's solicitors.

At the same time, Mr K had made a second complaint about the continued delay and the impact.

I can understand how frustrating it will have been for Mr K given that the accident wasn't his fault, to find that he is still out of pocket for the excess and for the hire car costs three years after the incident. And I also understand that because the claim was still open it was affecting his premiums.

However, Mr K was given the opportunity to use esure's repairers, which would have saved him both the excess and the hire costs but he chose to use his own repairer. I can see that he was advised by esure that if he used his own repairers, he would have to pay the excess, and any hire car costs and would be out of pocket for these expenses until the claim was settled. So, I can't say that Mr K wasn't making an informed choice.

Although I think esure could have communicated better during the period of delay, and didn't always act in a timely manner, much of the delay was caused by the third party's failure to respond, and this was out of esure's control. Their decision to issue proceedings to try and move things along was the right one, even if they ended up having to abandon it.

In respect of the effect of the open claim, it is normal for a claim to remain open until settled, and in this case it wasn't settled. I appreciate that this was inconvenient for Mr K, but as I have said esure were not in control of much of the delay, and so I can't hold them responsible for the increases in premium.

Unfortunately, as esure haven't been able to recover their outlay, the claim will have to remain recorded as a 'fault' claim, which will continue to impact Mr K's premiums, but I can't say esure have acted unfairly by recording the claim as they have, and unfortunately any claim whether 'fault' or 'non-fault' can impact on a policyholder's premiums.

esure accept that overall they could have done better here and I can see that they have offered a further £200 compensation for the delay, and have also offered to refund the excess of £850 by way of resolving this complaint. As esure are no longer able to recover the excess or car hire costs from the third party these are uninsured losses, and so esure aren't obliged to refund them, so I think the offer to pay the excess back to Mr K is a fair offer along with the £200 compensation.

## **Putting things right**

To put things right, esure should:

- Pay Mr K the £200 compensation and the £850 excess that they have already offered.

**My final decision**

My final decision is I'm intending to uphold Mr K's complaint about esure Insurance Limited and direct them to put things right as above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 3 April 2025.

Joanne Ward  
**Ombudsman**