

The complaint

Mr W has complained about the total loss settlement esure Insurance Limited paid when he made a theft claim under his car insurance policy. Mr W also complained that esure caused delay and didn't deal with his claim for personal items.

What happened

Mr W made a claim following the theft of his car in December 2024. esure offered a total loss settlement to Mr W for £16,222. esure said Mr W had misrepresented the facts when he applied for the policy as a previous insurer had cancelled a policy in his name. esure said it would have applied a rating to the premium if it had known this, so Mr W should have paid more for cover. It made a deduction from the settlement sum to reflect the percentage difference Mr W would have paid for his premium.

In December 2024 Mr W complained to esure. He said he had cancelled the policy with the previous insurer. He disagreed with the total loss settlement before the deduction, and with the deduction taken for misrepresentation.

Mr W said esure had caused an unreasonable and deliberate delay when dealing with his claim. It hadn't paid him anything and he was without funds to buy a replacement car.

Mr W said he had made a claim for personal items which esure hadn't dealt with.

One of our Investigators didn't recommend the complaint should be upheld. She thought esure had reached its valuation fairly, based on our approach. She explained that its underwriting criteria showed esure had reasonably applied a deduction for misrepresenting the cancellation in line with the relevant law for misrepresentation.

The Investigator said esure confirmed it hadn't received a claim for personal items.

Mr W asked for an ombudsman to decide. In summary he said not all of his complaints have been addressed. He said he provided evidence from his previous insurer to show he had cancelled the policy. So he said esure should not have applied a deduction. He said his car had a tow bar which would cost £1,500 to replace new.

Mr W said he did make a claim for personal items, but esure didn't deal with it. Mr W believes esure deliberately caused a delay to avoid paying his claim.

So the case 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.

I haven't addressed each and every point Mr W has made about his complaint. But I have focused on the salient points in line with our informal approach to resolving complaints. For ease, I've set out the complaints under headings below.

The valuation reached for Mr W's car is too low

In line with our approach, esure looked at the main motor trade guides when reaching a market value for Mr W's car. All but one of the guides matched the guides we checked for the month of loss. Sometimes this particular guide can provide a small anomaly in figures when a backdated valuation is obtained. However, all other guides match with esure's which were taken for the month of loss, during the month of loss. So I'm satisfied esure has carried out correct checks here.

esure used the highest of the available guides to it for Mr W's car, which was £16,222. Our Investigator checked the second hand price guide for the extras under Mr W's car. Again, the price matched esure's checks. Sometimes 'extras' affect a second hand value – sometimes they don't.

Mr W says his car had a tow bar attached, which he declared when he bought the policy, and which he paid an additional premium for. I've seen nothing under the policy documents provided by esure to show Mr W added a modification of a tow bar to his car when he bought his policy with it.

Mr W provided adverts of similar cars for sale which were more than the market value esure offered. However, esure provided an example advert for a similar car for less. And the Investigator carried out checks online for adverts based on a car similar to Mr W's and found cars for less – as well as more – than the main trade guide valuations. So overall I'm satisfied that the guides were not out of kilter with the market in providing an average valuation for a car similar to Mr W's. This means in line with our approach I find esure's valuation of £16,222 was reached in a reasonable way.

esure unfairly applied a deduction for misrepresentation

The Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA) requires consumers to take reasonable care not to make a misrepresentation when taking out a consumer insurance contract (a policy). The standard of care is that of a reasonable consumer.

And if a consumer fails to do this, the insurer has certain remedies provided the misrepresentation is - what CIDRA describes as - a qualifying misrepresentation. For it to be a qualifying misrepresentation the insurer has to show it would have offered the policy on different terms or not at all if the consumer hadn't made the misrepresentation.

CIDRA sets out a number of considerations for deciding whether the consumer failed to take reasonable care. And the remedy available to the insurer under CIDRA depends on whether the qualifying misrepresentation was deliberate or reckless, or careless.

In summary, where a qualifying misrepresentation occurs, and an insurer shows it wouldn't have offered a policy, it can avoid the policy. Misrepresentation can be categorised as either careless, or deliberate or reckless. The considerations are less favourable for a customer if it is found that the misrepresentation was deliberate or reckless.

esure has provided a screenshot of the key question Mr W was asked online when he applied for his policy. The question asked:

"Have you or any additional driver on this policy has ever had an insurance policy declined, cancelled, voided or had special terms imposed."

Mr W answered 'no' to this question. However, Mr W's previous insurer confirmed to esure that it had cancelled a policy in his name.

Mr W told the Investigator he had provided us with evidence to show this was incorrect. He said his previous insurer had confirmed it was their error and paid him compensation.

Our Investigator explained that we didn't have this evidence and asked Mr W to provide it. And she asked Mr W to show he had provided the same evidence to esure before it replied to his complaint. Mr W didn't reply.

So, based on the information esure had, I think it treated Mr W fairly and as it would any other customer in the same circumstances. esure said Mr W hadn't taken reasonable care when answering this question.

esure has provided underwriting evidence to show that had Mr W answered 'yes' to this question, it would have charged more for cover. An insurer's underwriting criteria is commercially sensitive and so cannot be shared. But we can ask an insurer to provide it to us so we can see if it treated a customer fairly.

Having reviewed the information provided, I find esure treated Mr W fairly. This means that in line with CIDRA, the misrepresentation Mr W made was a qualifying one.

esure classified the misrepresentation as careless, rather than deliberate or reckless. As this classification produces a more favourable outcome for a customer, I find it to be fair.

So in line with CIDRA, I find esure was entitled to take the deduction it did from the settlement sum, to reflect the percentage difference in the premium Mr W paid compared to the premium he should have paid esure – had the misrepresentation not taken place.

I agree with Mr W that in some of esure's correspondence it incorrectly referred to the cancellation as a conviction misrepresentation. While this isn't ideal, it doesn't change the outcome. I don't find the error is such that it warrants an award of compensation for distress or inconvenience caused.

esure caused unreasonable and deliberate delay

Mr W's car was stolen on 14 December 2024. On 17 December 2024 esure set out what it needed from Mr W to proceed with his claim. Mr W emailed esure back the same day with a number of attachments.

Mr W chased esure for an update and on 30 December 2024 it said it hadn't received Mr W's email, so it asked him to send it again. Mr W did this, but esure didn't receive it.

On the same day, Mr W resent the attachments over six emails. This time esure did receive the correspondence. And once it did, I find it acted promptly with his claim. It seems there was an issue with the attachment size which prevented Mr W's earlier emails from reaching esure. I've seen nothing to show esure caused a deliberate delay.

On 9 January 2025 esure confirmed the total loss settlement it would pay and asked Mr W to give authority to the finance company to release a final settlement figure to it, along with remaining validation documents including returning the spare key.

As Mr W didn't agree with the valuation settlement, it hadn't yet been paid at the time of esure's response to his complaint. So I don't find esure is responsible for an unreasonable delay.

esure didn't deal with Mr W's claim for personal items

I can see that Mr W submitted receipts to esure for two pairs of sunglasses, two coats and a receipt he says is for a car seat. He is unhappy that esure said it will deal with a claim for personal items, but that Mr W hasn't yet made one.

Mr W has provided policy wording for personal items that I cannot reconcile with the policy booklet esure has provided for Mr W's policy with it. The policy provided by esure says;

"Loss or damage to your car

You're also covered for

Child car seats (up to £100 for each one, even if there's no obvious damage)

In-car equipment – permanently fitted gadgets like a sound system, TV, DVD player, games console, sat nav, and dash cam.

We pay for the replacement amount if they were fitted from new by the manufacturer"

I can see under the Insurance Product Information Document (IPID) it summarises what is and isn't covered under the 'flex' policy Mr W held with esure.

"What is insured - car seats up to maximum of £100."

"What isn't insured - loss or damage to personal belongings or audio equipment that isn't permanently fitted to your car."

I agree that Mr W raised his concerns about his claim for personal items not being met when he complained to esure. But I cannot see that it addressed his concerns about this when it replied to his complaint. I think it should have done this.

I've looked at the receipts Mr W has provided to esure. The receipt he says is for a child car seat doesn't show this. It shows the total amount, but the key item bought is missing from the attachment. If Mr W can provide a full receipt to esure, it can deal with his claim for personal items in line with the policy limits set out above.

I think esure provided Mr W with a fair valuation within one month from the date of his claim, which we generally regard as reasonable. And overall I don't find that esure's handling of Mr W's claim was poorly handled or outside of the scope of the policy.

My final decision

I'm sorry to disappoint Mr W. But for the reasons I've given above, my final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 22 August 2025.

Geraldine Newbold
Ombudsman