

## **The complaint**

Miss M complains about the liability decision esure Insurance Limited ('esure') made when she submitted a claim under her motor insurance policy.

## **What happened**

Miss M was involved in a car accident involving a third-party vehicle in September 2023. She contacted esure to report the accident circumstances; but said she wasn't making a claim. However, esure recorded that Miss M had accepted liability and therefore when the third-party insurer claimed – they settled it on a 'fault' basis.

Miss M became aware of this when she came to renew her policy which had increased in price. She contacted esure and said she hadn't admitted fault for the accident. Unhappy with esure's handling of the claim – she raised a complaint as she felt the claim likely should have been settled on a 50/50 basis.

When esure responded to the complaint they said Miss M had told them she accepted liability when she reported the claim to them and explained she wasn't making a claim. But they awarded £100 compensation for communication issues as she was never told when the third party's claim came into esure. Miss M remained unhappy with esure's response – so she brought the complaint to this Service.

An Investigator looked at what had happened but ultimately didn't think the complaint should be upheld. While he acknowledged there had been delays and communication issues, he thought the liability decision esure had made was reasonable. And he explained that while there were several mistakes esure made – he was satisfied these didn't change the overall liability position. And he thought the £100 compensation paid was fair in the circumstances.

Miss M didn't agree with the Investigator's recommendation and asked for an Ombudsman to consider the complaint.

## **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've reached the same overall conclusion as the Investigator.

I'd like to start by reassuring both parties that, although I've only summarised the background to this complaint, so not everything that's happened or been argued is set out above; I've read and considered everything that has been provided. This isn't meant as a discourtesy – but instead reflects the informal nature of this Service. So, while I may not comment on each and every point made, I have taken it all into account when deciding what I consider to be fair and reasonable.

It's not in dispute that esure made communication errors in the claim process and their customer service wasn't to the standard that Miss M could reasonably expect to receive. I

can see esure acknowledged this. So, I don't need to make an extended finding on whether or not esure did something wrong here. Instead, I need to decide what the impact was to Miss M and whether they've done enough to put things right.

I can see esure apologised for their communication issues and made a compensation award of £100 already. But the main issue of this complaint is really down to the liability decision they made. So, I've looked at the main points Miss M has raised and thought about whether esure acted unfairly when dealing with the claim.

While I agree Miss M didn't explicitly accept fault for the accident when she reported the claim to esure – she did explain the accident circumstances, which esure felt would mean she would likely be found at fault for the accident. Under Miss M's policy, esure has the right to take over and settle a claim on her behalf. This means they can make a commercial decision about whether it's reasonable for them to defend a claim or not. This allows esure to decide how to manage the claim and it mitigates the risk of claims incurring large, unrecoverable costs when it's unlikely an insurer will be able to recover those costs from another party. As this is a common term in most insurance policies, it's not unreasonable – provided they applied this fairly.

I should also explain that it isn't this Service's role to say who's at fault for causing an accident. That's a matter for a court to decide. Our role is to look at whether esure carried out a fair investigation, reviewed all the available evidence, and came to a reasonable liability decision. And having looked at how esure considered liability for the claim, I think they've acted fairly – I'll explain why.

The accident circumstances recorded by esure say that Miss M was pulling out of a side road to join a main carriageway and a collision occurred between her and a vehicle in the second lane. I appreciate Miss M has explained to the Investigator that the other driver had cut across the central reservation which had contributed to the accident. However, esure said as Miss M was exiting a junction and her view was obstructed at the time, she shouldn't have exited the junction until it was safe to do so.

Based on their notes, I'm satisfied esure have reasonably considered the circumstances of the accident and concluded that Miss M would, on balance, be held at fault for the accident. When taking into account Miss M's own testimony, she confirmed she was pulling into the road, and esure said she would be required to give way to oncoming traffic at the time. I find this to be a reasonable conclusion to make. I can understand why Miss M feels frustrated that a fault claim has been recorded against her but I can't fairly conclude esure's liability decision was unreasonable.

I can see Miss M's other concerns relate to the general claim's handling process and not receiving updates, especially when the third-party claim was received. While I acknowledge these failings and agree this would have caused inconvenience to Miss M, I don't find that they were material to the overall liability outcome they reached – which is the main point raised in this complaint.

In respect of these issues, esure have already made an award of compensation of £100. And I can see the Investigator felt this was fair in the circumstances. I've thought about whether esure's compensation is enough to reflect the impact on Miss M of their service. I've weighed up Miss M's testimony, the available evidence, and the duration of the incident. Overall, I consider £100 to be a fair and reasonable sum of compensation – so I won't be directing them to increase this.

And while Miss M has said esure's compensation payment doesn't take into account the fact that her premiums had increased due to the accident, I don't think this is unfair, because even a split liability claim could increase a renewal premium.

While I appreciate this is not what Miss M might hope for and that this will not fundamentally change matters for her - I consider this to be in line with the level of compensation appropriate to these issues and the impact caused. And I'm satisfied this produces a fair and reasonable outcome in the circumstances of this particular complaint.

### **My final decision**

For the reasons I've given above, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 7 July 2025.

Stephen Howard  
**Ombudsman**