

## **The complaint**

Mrs S and Mr S complain about how esure Insurance Limited (esure) declined a claim under their motor insurance policy and cancelled their policy.

References to esure in this decision include their agents.

## **What happened**

In July 2024 Mrs S and Mr S were driving to see family when they swerved to avoid an animal that emerged into their path. In doing so, they collided with a parked car in a layby, causing the airbags in their vehicle to deploy. They contacted esure to tell them about the accident. They also provided images of the vehicles immediately after the accident. The vehicle was recovered by esure's recovery agent to their salvage agent (C).

esure investigated the claim, carrying out validation checks and providing a hire car for the period. Mrs S and Mr S were unhappy at the delays in assessing their claim, so they complained. esure partly upheld the complaint, awarding £100 compensation (August 2024).

esure then repudiated the claim, later in August 2024, because of doubts they had over the accident occurring in the way described by Mrs S and Mr S and following an inspection of their vehicle by a forensic engineer (I). They subsequently returned Mrs S and Mr S's vehicle to them. esure also said they would cancel the policy from the end of August 2024. Mrs S and Mr S were unhappy at esure's actions, saying they hadn't been given a reason for the decline of their claim and cancellation of their policy.

Mrs S and Mr S raised a further complaint. esure didn't uphold the complaint. In their final response they said review of their case file led them to conclude they couldn't change the decision. The file had also been reviewed by two senior investigators, who agreed the claim should be declined. A statement from Mrs S and Mr S had led to a forensic examination of their vehicle by I. Based on their findings, esure were satisfied there were inconsistencies and irregularities in the claim presented by Mrs S and Mr S.

Mrs S and Mr S then complained to this Service, unhappy at esure declining their claim. They said the decline breached the terms of their insurance contract and esure hadn't provided a reasoned basis to decline the claim nor assessed the claim promptly. esure's decline of the claim had affected their health and wellbeing. They also thought they may have been subject to racial discrimination in esure's handling of the claim. They'd incurred costs in storing their damaged vehicle, which they wanted esure to reimburse. Nor had esure followed their complaints process or responded appropriately to their Data Subject Access Request. They wanted esure to accept their claim and reverse their decision to cancel their policy. They also wanted esure to cover the costs they'd incurred and compensation.

Our investigator didn't uphold the complaint. They reviewed the evidence available, including the statement provided by Mrs S and Mr S, I's report and esure's investigator's findings and conclusions. And esure had considered the evidence from Mrs S and Mr S, including their statement and description and photographs of the accident. The investigator concluded esure had demonstrated their reasons for declining the claim and their decision to decline it

was fair. The policy terms and conditions provided for them to do so. esure also had the right to carry out validation checks on the claim, which they did in the time between the accident and their decline of the claim. The investigator didn't think four weeks was an unreasonable length of time to do this.

Mrs S and Mr S disagreed with the investigator's view and asked that an ombudsman consider the complaint. So, the complaint has been passed to me to consider.

### **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.

My role here is to decide whether esure have acted fairly towards Mrs S and Mr S.

The key issue in Mrs S and Mr S's complaint is esure's decline of their claim for damage to their vehicle from the accident they reported to esure. There's also the subsequent cancellation of their policy. Mrs S and Mr S say esure haven't provided reasons for their decline, which they consider unfair. esure maintain their decline was fair, based on the evidence from Mrs S and Mr S as well as the report from I, a statement taken from Mrs S and Mr S as well as review by their own investigators.

In considering the complaint, it's important to note my role isn't to assess the claim and the circumstances of the accident. It's to decide whether esure acted fairly and reasonably in declining the claim and cancelling the policy.

I've considered carefully all the evidence available in this case, particularly the results of esure's investigation of the claim and the circumstances of the accident, together with Mrs S and Mr S's version of events. While I have considered all the evidence and information, including the detailed submissions and representations made by Mrs S and Mr S, I won't comment in detail on every specific point, concentrating on those I think are most relevant to the case.

Having done so, I've concluded esure did act fairly and reasonably in declining the claim and, subsequently, cancelling the policy. I know this will be very disappointing to Mrs S and Mr S, so I'll set out the reasons why I've reached this conclusion.

I've also noted that esure have the right to assess and investigate a claim made under the policy, which is common to all insurance policies, particularly where they feel there are grounds to do so. This may be, as in this case, where they have doubts over the version of events surrounding the accident presented by Mrs S and Mr S. I can see esure appointed investigators' to interview Mrs S (with Mr S present) which produced a statement. Mrs S and Mr S say they weren't provided with a copy of the statement to sign after the interview. But they have subsequently been provided with a copy and made comments on it, which I've considered alongside the other evidence and information available.

I've also considered I's report in detail, including its findings and conclusions. The report is detailed and considers the circumstances of the accident and the description of what happened provided by Mrs S and Mr S. I'm not able to share the report with Mrs S and Mr S (esure said they couldn't provide it for legal reasons) but taking the report as a whole I find its findings and conclusions persuasive, given the engineer is a specialist with long experience in the field. And involved inspection of Mrs S and Mr S's vehicle and photographs of both vehicles and their positions after the incident. The report concludes there are inconsistencies with the description of the incident by Mrs S and Mr S.

I've also looked at esure's investigator's review of the circumstances of the incident, including I's forensic report. It makes additional points and concerns about the circumstances of the incident as described, concluding the claim should be repudiated. Again, I find the document to be persuasive and for esure to have concerns about the circumstances of the incident and the claim.

I've also considered the statement taken from Mrs S and Mr S, at the beginning of August 2024. The statement is brief and simply describes the incident from the perspective of Mrs S. Mrs S has seen the statement and provided comments to our investigator, but they don't change the substance of the statement.

Based on these reports and findings, esure repudiated the claim in its entirety. esure have referred to the policy terms and conditions that provide for them to refuse to pay a claim if a policyholder misrepresents information in support of a claim or makes a false claim. The same provisions also provide for esure to cancel a policy in such circumstances.

Taking account of my findings and conclusions set out above, then I'm satisfied esure acted fairly and reasonably in exercising their rights under the policy to repudiate the claim and cancel Mrs S and Mr S's policy.

While I've reached this conclusion, I've also considered the other key issues raised by Mrs S and Mr S. The first of which was the time taken to assess the claim and then repudiate it. Looking at the timeline, it took just under four weeks from the date of the incident to esure repudiating the claim. In the circumstances, given the doubts esure had about the circumstances of the incident and the need to investigate further, I don't think this was an unreasonable timescale, involving interviewing Mrs S and Mr S and obtaining a forensic report. And from the case notes, I can see Mrs S and Mr S were provided with a courtesy car for the period through to repudiation of the claim, which I think reasonable.

Mrs S and Mr S say esure's decline of the claim breached the terms of their insurance contract and esure hadn't provided a reasoned basis to decline the claim. However, given my findings and conclusions about esure's decline of the claim set out earlier, I don't agree and esure haven't acted in line with the provisions of the policy.

Mrs S and Mr S also say esure's decline of the claim has affected their health and wellbeing. I don't doubt that the incident would have been traumatic, from their description of what happened. And esure's decline of the claim and cancellation of the policy would have affected them adversely, as they've set out when bringing their complaint to this Service. But while I appreciate what they've said, my role is to decide whether esure have acted fairly and reasonably in the circumstances of the case. And as I've set out, I've concluded they have.

Mrs S and Mr S also say they may have been subject to racial discrimination in esure's handling of the claim. As a Service, we cannot make a finding about whether an insurer's actions constitute a breach of the relevant legislation, in this case the Equality Act 2010. Only a court can do that. Mrs S and Mr S have provided some media and other coverage of alleged racial discrimination in the insurance industry, but that is general rather than specific to the circumstances of this case. And Mrs S and Mr S haven't set out any specific grounds for believing why esure may have discriminated against them. Not have I seen anything in the evidence and information in this case to suggest they were treated any differently to how any other customer would have been treated given the circumstances and esure's doubts about the incident.

Mrs S and Mr S also say they've incurred costs in storing their damaged vehicle, which they want esure to reimburse. However, as I've concluded esure acted fairly in repudiating the

claim, then it wasn't unreasonable for them to return the vehicle. So, it wouldn't be reasonable to ask esure to cover any storage costs Mrs S and Mr S may have incurred.

Mrs S and Mr S also say hadn't followed esure followed their complaints process. But I've seen two final responses to complaints raised by Mrs S and Mr S, both in August 2024. Both are well within the eight week timescale for a business to respond to a consumer complaint. And both give referral rights to this Service, as I'd expect.

On esure's response to their Data Subject Access Request, this isn't something that falls within the remit of this Service. Rather it would fall to the Information Commissioner's Office (ICO). From what I've seen, the indications are that Mrs S and Mr S have contacted the ICO.

Taking all these points into account, I think esure have acted fairly and reasonably, so I won't be asking them to do anything further.

### **My final decision**

For the reasons set out above, it's my final decision not to uphold Mrs S and Mr S's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S and Mr S to accept or reject my decision before 11 August 2025.

Paul King  
**Ombudsman**