

The complaint

Ms D complains that esure Insurance Limited mishandled a claim on her motor insurance policy.

What happened

In about 2019, Ms D acquired a car that had first been registered in about 2010.

For the year from mid-April 2022, Ms D had the car insured on a comprehensive policy with esure. According to the policy schedule she had three years no-claims discount ("NCD"). Any claim for damage (except to a windscreen) was subject to excesses totalling £400.00.

Unfortunately, on 1 June 2022, Ms D's car and a third party's van were involved in an accident at a "T" junction. The accident injured Ms D and seriously damaged her car.

By 8 June 2022, the third party had notified esure of a claim against Ms D.

In about 2023, Ms D got a replacement car.

For the year from mid-April 2023, Ms D and esure renewed the policy.

In about late May 2023, Ms D sent esure a sketch and a photograph of her car and the van at the scene of the accident.

In an email dated 14 February 2024, esure told Ms D the following:

"We are clear that you were driving your vehicle on the main road, however when reviewing the photos taken at the scene, it appears to show the third party vehicle with wheels not over give way but front of vehicle is, however your vehicle is lying angled within give way, possibly more consistent with the third party allegations that your vehicle has collided with their vehicle as you entered the junction. As both insurers were disputing liability and the fact the witness did not respond to us, we have had no option but to settle liability on a 50/50 split liability basis."

Esure recoded a fault claim against Ms D affecting her NCD, including on the Claims Underwriting Exchange ("CUE") database.

For the year from mid-April 2024, Ms D and esure renewed the policy. According to the policy schedule, she had two years' NCD.

By an email dated 16 June 2024, Ms D referred to "*new evidence*".

In late August 2024, Ms D complained to esure about communication.

By a (first) final response dated 13 September 2024, esure accepted that complaint in part. It said the following:

“...our Claims Department could’ve communicated with you and handled the claim in a more proactive manner”

The first final response said that esure had sent Ms D a card payment of £150.00.

By an email dated 21 September 2024, Ms D complained to esure that it hadn’t sent a response to the new evidence in her email dated 16 June 2024.

Ms D brought her complaint to us in mid-November 2024. She asked us to direct esure to take certain steps including to pursue her claim as not her fault and to refer her injury claim to a law firm.

By a second final response dated 27 November 2024, esure turned down the complaint about liability, but apologised for its communication after the first final response, and said it was sending a further £50.00. That made a total of £200.00.

Our investigator recommended in late July 2025 that the complaint should be upheld in part. He didn’t think that esure had done a sufficiently robust liability investigation. He recommended that esure should:

- record the claim as ‘non-fault’ and NCD allowed;
- reinstate Ms D’s NCD from 19 April 2023;
- refund or waive any policy excess Ms D paid;
- re-rate Ms D’s insurance premiums from 19 April 2023, and recalculate the premiums and issue a refund where necessary;
- provide Ms D with a letter to say the claim settled as non-fault and her NCD was allowed. (if required);
- update CUE to record the correct claims status and outcome;
- pay 8% statutory interest on any premium refund from the date it was paid until settlement;
- pay Ms D an additional £300.00, for the distress and inconvenience caused.

The investigator’s view asked esure to respond by 4 August 2025.

Ms D agreed with the investigator’s opinion. Her son says that she has not received a refund or waiver of excess.

Esure disagreed with the investigator’s opinion. By emails dated 5 and 14 August 2025, esure asked for an ombudsman to review the complaint. It says, in summary, that:

- Ms D’s witness didn’t respond.
- The third party’s insurer offered 50/50 and it accepted.
- Ms D is unable to provide evidence which holds the other party at full fault.

Ms D’s son adds, in summary, that:

- esure missed the deadline for asking for an ombudsman to review the complaint, so we should dismiss the request on procedural grounds.
- Photograph evidence from the crash scene shows the other party fully at fault.

- We should consider whether esure is acting in bad faith. We should consider making an award to Ms D accordingly.

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 find it fair and reasonable to review the complaint notwithstanding that esure was slightly late in asking for a review.

The policy covered any accidental damage to Ms D's car and any liability she had to a third party. The policy didn't cover any injury to Ms D.

Esure's policy terms included the following:

"We have full discretion in the settlement of your claim or any legal proceedings which may arise and we may take over, defend or settle, or take up the claim in your name for our own benefit."

The effect of that term was that – on a question of how best to deal with a claim involving a third party – esure's view would prevail over its policyholder's view. That's not unusual in motor insurance policies.

Nevertheless I will consider whether esure treated Ms D fairly. Unlike a court, we don't hear from each driver and decide the extent to which they were responsible for causing injury or damage.

The accident and the need to make a claim were, in my view, bound to cause Ms D distress and inconvenience.

I don't consider that the third party's messages amount to an admission of liability.

Ms D reported that she'd been driving along the main road when the van pulled out of a side road into her path.

Esure gave Ms D conflicting information about putting her in touch with a law firm to pursue an injury claim. I don't condone that. Nevertheless, esure's policy didn't cover her injury, so I don't find it fair and reasonable to direct it to refer her injury claim to a law firm.

The third party said that Ms D had collided with the van. However, I haven't seen enough evidence that the third party gave more detailed information. In particular I haven't seen enough any evidence that the third party said that Ms D entered the junction and hit the van.

So I don't consider that esure treated Ms D fairly by saying that the photographic evidence was possibly more consistent with the third party allegations that Ms D's car entered the junction and collided with the van.

Moreover, the photograph was, in my view, good evidence that Ms D's car was on the main road to the left of the central road marking, whereas the van had pulled out beyond the give-way line of the junction and across the central road marking of the main road. I consider that esure should've realised that in April 2023, albeit that Ms D didn't point it out until June 2024.

Also, esure has accepted shortcomings in its communication with Ms D.

I'm not at all satisfied that esure properly considered all the relevant evidence before agreeing to split liability.

I consider that esure ought reasonably to have advocated Ms D's case to the third party insurer. I find it more likely than not that the third party insurer would've accepted liability. So esure's shortcomings caused a financial impact on Ms D in relation to her premiums for the years from April 2023.

Its shortcomings also caused Ms D distress and inconvenience. The impact on Ms D has included worry about her insurance history and future premiums. That has lasted for many months.

I consider that esure has made this worse by continuing to misinterpret the photograph and by challenging the investigator's opinion. So I've thought about increasing the compensation for distress and inconvenience.

However, I've concluded that a total of £500.00 is fair and reasonable and in line with our published guidelines for compensation for distress and inconvenience.

Putting things right

So I find it fair and reasonable to direct esure to:

1. write a letter to Ms D (which she may show to current and future insurers) saying that it agrees and has notified CUE that the claim dated 1 June 2022 was not Ms D's fault and did not affect her NCD; and
2. on that basis, to re-calculate its insurance premiums for Ms D for the years from 19 April 2023; and
3. refund any over-payments of premium; and
4. refund any policy excess Ms D paid; and
5. add interest to the refunds at our usual rate; and
6. pay Ms D, in addition to its payments totaling £200.00 a further £300.00 for distress and inconvenience.

My final decision

For the reasons I've explained, my final decision is that I uphold this complaint in part. I direct esure Insurance Limited to:

1. write a letter to Ms D saying that it agrees and has notified CUE that the claim dated 1 June 2022 was not Ms D's fault and did not affect her NCD; and
2. on that basis, to re-calculate its insurance premiums for Ms D for the years from 19 April 2023; and
3. refund any over-payments of premium; and
4. refund any policy excess Ms D paid; and
5. add simple interest at a yearly rate of 8% from the date of each payment on each amount refunded to the date of the refund. If esure considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Ms D how much it's taken off. It should also give her a certificate showing this if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate; and

6. pay Ms D, in addition to its payments totaling £200.00 a further £300.00 for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms D to accept or reject my decision before 26 September 2025.

Christopher Gilbert

Ombudsman