

## The complaint

Mr Y has complained about the amount esure Insurance Limited has paid in settlement of his claim under his car insurance policy.

## What happened

Mr Y's vehicle was stolen in January 2025 and he made a claim under his policy. esure asked him to provide certain documents to enable it to validate his claim, along with a code so it could check his driving licence. When it checked his licence esure discovered Mr Y had a SP30 fixed penalty with an offence date of 1 June 2024. It said he should have told it about this prior to his policy starting on 17 July 2024.

esure valued Mr Y's vehicle at £7,189. It then said that due to Mr Y's failure to declare his SP30 he'd only paid 73.47% of the premium he should have paid. So, it only paid 73.47% of what it said was the settlement amount due on Mr Y's claim. It also refused to pay his claim for what it described as the personal belongings on or in his vehicle at the point it was stolen on the basis Mr Y's policy did not cover personal belongings.

Mr Y complained to esure, but it wouldn't alter its position. So Mr Y asked us to consider his complaint. One of our investigators did this. She said esure had used the wrong market value as a basis to settle Mr Y's claim. She thought it should have settled Mr Y's claim based on the highest value from the industry guides used to value vehicles of £8,940. Although, she was satisfied esure was entitled to settle the claim on a proportionate basis. She said esure should pay Mr Y the difference between the market value it had used of £7,189 and £8,940 as an additional amount in settlement of his claim, plus interest. She also said there was nothing wrong with esure's rejection of Mr Y's claim for personal belongings, as his policy did not cover these.

esure didn't accept the investigator's view and asked for an ombudsman's decision. It said that it had provided adverts to support the fact that a market value lower than the highest guide value was fair.

I issued a provisional decision on 17 September 2025 in which I set out what I'd provisionally decided and why as follows:

*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 provisionally decided to uphold it. I'll explain why.*

*Did esure use the right value as the basis for the settlement of Mr Y's claim?*

*In the event of a total loss Mr Y's policy required esure to base its settlement of his claim for his vehicle on its market value, as defined in the policy. Market value is defined in the policy as follows:*

*'the amount you could reasonably have expected to sell your car for on the open market*

*immediately before your accident or loss. Our assessment of the value is based on cars of the same make and model and of a similar age, condition and mileage at the time of accident or loss. This value is based on research from motor trade guides including: Glass's, Parkers, Cazana and CAP. This may not be the price you paid when you purchased the car.'*

*First of all, I should say that I think esure's definition of market value is out of line with what I consider to be good industry practice. I say this because good industry practice is for market value to be the cost to a policyholder of replacing their vehicle in the retail market with one of the same make and model; not the cost of them selling it on the open market. The reality is if Mr Y had sold his vehicle on the open market he would have had to do this privately. And he would have received a lot less for it than he would have had to pay to buy a suitable replacement on the retail market.*

*As esure's definition of market value is out of line with good industry practice, I consider it is fair and reasonable for me to require it to settle Mr Y's claim based on the cost of him replacing his vehicle in the retail market with one of the same make and model and of a similar age, condition and mileage at the time it was stolen. Strangely, it does seem esure based its settlement on what it thought it would have cost Mr Y to replace his vehicle in the retail market, despite this not being in line with its policy definition of market value. Our approach to determining whether the retail market value an insurer has used is appropriate is to check four industry guides to see whether what its offered is in line with these. These guides include three of the guides esure use. But we also use a different fourth guide. We'd expect an insurer to evidence any valuation lower than the highest guide being fair and explain why this evidence supports a market value lower than the highest guide. If it can't or doesn't do this we're likely to say it needs to base its settlement on at least the highest guide valuation. And the best evidence to support a value lower than the highest guide value that an insurer can provide is adverts from around the time the insured car was lost or damaged to show similar vehicles with roughly the same mileage could have been purchased by the consumer for what it has valued the vehicle at. But this would need to be accompanied by an explanation of why it thinks the adverts show this.*

*The highest guide value esure got when considering Mr Y's claim was £8,940. But esure thought it was fair to use a much lower value than this as the starting point for the settlement of his claim. And when our investigator said it hadn't provided sufficient evidence to justify this, esure said it had provided three adverts which supported its use of a lower value, but it didn't explain why it thought these adverts did this. And two of them are for 2011, 11 plate vehicles, whereas Mr Y's vehicle was a 2011, 61 plate. And both of them had a significantly higher mileage than Mr Y's vehicle. The other advert is for a 2012, 62 plate vehicle with a mileage close to Mr Y's at around the value esure used. But this is one advert and esure has not explained why it thinks it supports its valuation. So I do not think it is strong enough evidence in itself to justify esure's use of a value lower than the highest guide value. So, I agree with our investigator that esure should have used the highest guide value of £8,940 as the starting point for working out the settlement of Mr Y's claim.*

*I do of course appreciate Mr Y's point that his vehicle was in excellent condition and had some very nice features. But the reality is that these things make little difference to the price of second-hand cars generally, especially when they are nearly 15 years old. In addition, I should say that the value Mr Y provided for his vehicle when he took out his policy is not what he is entitled to receive in the event of a total loss claim. It is just a figure, which presumably esure finds useful in terms of assessing the risk. Although, bearing in mind esure has access to valuation guides, I am not sure why it actually needs to ask customers to provide this information. And I can see why it might create the wrong impression. Was esure entitled to settle Mr Y's claim on a proportionate basis?*

*The relevant law in this case is The Consumer Insurance (Disclosure and Representations)*

Act 2012 (CIDRA). This 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.

esure thinks Mr Y failed to take reasonable care not to make a misrepresentation because when he took out the policy he was asked whether he'd had any motoring convictions or fixed penalty offences in the last five years. And he answered this question 'no'. Having checked, esure found out that he had an SP30, which is a fixed penalty offence, and the offence date was 1 June 2024. So, it seems that esure assumed that Mr Y knew about this either when he took the policy out on 11 July 2024 or before it started on 18 July 2024. But esure doesn't actually appear to have checked this with Mr Y. This is important, because if Mr Y didn't know about it by the time the policy started, he wouldn't have needed to declare it. I've checked with Mr Y and he has confirmed he didn't know about the SP30 when he took out his policy on 11 July 2025 or when it started on 18 July, as his wife only let the police know on 13 July 2024 that he was driving at the time of the speeding offence. And he did not receive a letter saying he was going to receive an SP30 fixed penalty until around 10 days after this.

This means Mr Y did not fail to take reasonable care not to make a misrepresentation when he took out his policy on 11 July 2024 or before it actually started on 18 July 2024. And it means that esure was wrong to settle his claim proportionately. It should have paid it in full. And, as I've already explained, I think the value esure should have used as a starting point to settle Mr Y's claim for his vehicle was £8,940.

I appreciate esure might argue Mr Y should have told it about his SP30 when he was notified about it after his policy had started. And the terms of his policy did say he needed to tell it about any changes. But, even if Mr Y had told esure about his SP30 when he was notified of it, it would not have been appropriate for it to take it into account and charge him extra premium because of it until his policy was due to renew in July 2025. This is because it was not a fundamental change to the risk it had agreed to insure for a full year.

Should esure have rejected Mr Y's claim for his personal belongings?

I think the problem with esure's approach to this aspect of Mr Y's claim is that it classed all the items stolen with his vehicle as personal belongings, when some of them were clearly accessories. And his policy covered the theft of his vehicle and accessories. I see a vehicle accessory as an item that can only really be used with a motor vehicle. And the ones on the list of items stolen with Mr Y's car that I would class as accessories were the camping roof cage, the roof cage ladder, the satellite navigation device, the jump leads and the warning triangle. However, the policy wording did make it clear electrical items weren't covered. So I don't think esure needed to pay anything for Mr Y's satellite navigation device, as I think this can be classed as an electrical item. But it should have paid his claim for the other items I've mentioned. Obviously, if esure had dealt with Mr Y's claim as it should have done, it would have checked the cost of replacing these items and then it should have added it to the settlement amount for his vehicle, before the deduction of the policy excess. But, at this late stage, I do not think there is a need for me to check the replacement costs of these items. And I think it is fair and reasonable to use the figures Mr Y has provided. The total amount

*for the items covered provided by Mr Y is £905.96. But the amount for the warning triangle includes a high visibility jacket, which is not really a car accessory. So, I think a further amount of £900 for these items is appropriate.*

*This means the settlement of Mr Y's claim should have been £8,940 for his vehicle + £900, for accessories, which equals £9,840, less the £400 excess, leaving £9,440. Whereas esure only paid Mr Y £4,882 in total in settlement of his claim. This means I think Mr Y should receive a further £4,958 in settlement of his claim, plus interest to compensate him for being without this money.*

*Should Mr Y receive any compensation for distress and inconvenience?*

*As I've explained, esure has actually paid nearly five thousand pounds less than it should have done on Mr Y's claim. And it failed to properly check the position in law before settling his claim proportionately. And it rejected his claim for accessories because it incorrectly treated them as personal belongings. In addition to this, it applied the excess before getting to the proportionate settlement amount and told Mr Y it could have avoided his policy, when even if he had failed to take reasonable care, it had accepted this was careless and would have had no right in law to avoid his policy. This led to Mr Y having to dispute its settlement and not understanding exactly what his rights were in law. And, even when he did dispute its approach, esure didn't realise it was wrong to settle his claim proportionately or that it should have been paying an additional amount for accessories.*

*This all left Mr Y confused and significantly short of the amount he needed to replace his vehicle. Therefore, I think it is fair to say Mr Y experienced unnecessary distress and inconvenience due to esure's poor handling of his claim. And I think this warrants compensation of £300, which I consider to be in line with the level of compensation we normally award for this level of distress and inconvenience.*

### ***My provisional decision***

*For the reasons set out above, I have provisionally decided to uphold Mr Y's complaint about esure Insurance Limited and require it to do the following:*

*Pay Mr Y a further £4,958 in settlement of his claim, plus interest at 8% per annum simple from the date it paid him the settlement amount it decided on to the date it makes this payment.*

*Pay Mr Y £300 in compensation for distress and inconvenience.*

*I gave both parties until 1 October 2025 to provide further comments and evidence in response to my provisional decision.*

*Mr Y hasn't provided any further comments or evidence.*

*esure does not agree with my view that it wasn't entitled to take into account Mr Y's fixed penalty offence to reduce the settlement amount due on his claim. It's said that the offence date was prior to the policy start date, which means the fixed penalty predated the start of the policy. And that it would only take into account a conviction at the following renewal if it had occurred mid-term after the policy had started. esure has said that because the fixed penalty occurred prior to the policy start date it should have been factored into the underwriting and rating of Mr Y's policy. And it's referred to the policy terms that required Mr Y to inform it of any changes or inaccuracies in the information it held about him. esure has further pointed out that at the point the policy started Mr Y knew the fixed penalty was pending.*

## **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've noted esure's comments in response to my provisional decision, but they do not alter my view on the fair and reasonable outcome to Mr Y's complaint.

esure relied on CIDRA – not the policy terms – to reduce the amount it paid in settlement of Mr Y's claim on a proportionate basis. But, as I explained in my provisional decision, it was only entitled to do this if it could show Mr Y failed to take reasonable care not to make a misrepresentation when he took out his policy. At this point, he was asked whether he had had any motoring convictions or fixed penalty offences in the last five years. And, despite the offence giving rise to his fixed penalty having happened before the policy started and Mr Y being aware he was likely to receive a fixed penalty at this point, he did not actually have a fixed penalty offence on his record at the point his policy started. So, he did not fail to take reasonable care not to make a misrepresentation when he said he hadn't had any motoring convictions or fixed penalty offences in the last five years. Or when he didn't correct this statement before the policy started. I do not consider Mr Y was obliged due to the policy terms to tell esure when he found out he was likely to receive a fixed penalty, as at this point he did not actually have the policy.

I have also noted what esure has said about the fact it would only wait until renewal to take into account a fixed penalty if it had occurred mid-term during the policy year. But this is exactly what happened in Mr Y's case. He received his fixed penalty mid-term, irrespective of the fact the offence date pre-dated the start of the policy. So, esure was only entitled to take it into account when Mr Y's policy came up for renewal in July 2025.

As esure's comments with regards to Mr Y's failure to let it know about his fixed penalty offence hasn't changed my view on this issue. And because esure hasn't provided any further comments on the market value of Mr Y's vehicle or on his claim for personal belongings or my compensation award, I see no reason to depart from what I set out as the fair and reasonable outcome to Mr Y's complaint in my provisional decision.

## **Putting things right**

For the reasons set out above and in my provisional decision dated 17 September 2025, I've decided to uphold Mr Y's complaint about esure Insurance Limited and require it to do the following:

- Pay Mr Y a further £4,958 in settlement of his claim, plus interest at 8% per annum simple from the date it paid him the settlement amount it decided on to the date it makes this payment.\*
- Pay Mr Y £300 in compensation for distress and inconvenience.\*\*

\* esure must tell Mr Y if it has made a deduction for income tax. And, if it has, how much it's taken off. It must also provide a tax deduction certificate for Mr Y if asked to do so. This will allow Mr Y to reclaim the tax from His Majesty's Revenue & Customs (HMRC) if appropriate.

\*\* esure must pay the compensation within 28 days of the date we tell it Mr Y accepts my final decision. If it pays later than this, it must also pay interest on the compensation from the deadline date for settlement to the date of payment at 8% a year simple.

**My final decision**

I uphold Mr Y's complaint about esure Insurance Limited and require it to do what I've set out above in the 'Putting things right' section.

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

Robert Short  
**Ombudsman**