

complaint

Mrs K has complained that esure Insurance Limited made a mistake with how it dealt with a claim on her motor insurance policy. Mrs K is represented by her relative, Mr K.

background

Mrs K says that a bus hit her car while it was parked. She reported the incident to esure and provided details of a witness. She says that esure failed to investigate properly and was wrong to allow the third party insurer to deny responsibility for the damage to her car.

The adjudicator agreed that esure took too long to follow up with the third party's insurers and failed to carry out relevant investigations such as assessing the damage and checking for CCTV footage. The adjudicator also thought esure could have used the registration number of the bus with the time and location information to ask for a statement from the bus driver. The adjudicator recommended that esure should:

- settle the claim as non-fault,
- make sure it is registered as non fault on all internal and external databases
- reinstate any deduction made to Mrs K's NCD
- re-rate the policy on that basis -reimbursing any necessary overpayment of premium
- reimburse Mrs K's £300 policy excess.
- pay Mrs K £200 for the upset and frustration she experienced

In response esure said it agreed that more could have been done initially but disagreed that this had prejudiced Mrs K's position. It also said the specific investigations suggested by the adjudicator wouldn't have changed things as it would not have yielded the evidence to persuade the third party insurer to settle.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Looking carefully through all the evidence for this complaint I think that esure didn't do enough to follow up on the information provided by Mrs K. Mrs K gave esure a date and a time of the incident and a registration number for the bus. I can see that a second witness statement could not be used in court as the witness was too young but it provided further evidence which esure has now passed to the third party.

esure could have used the details to pursue the third party's insurer. I can see there was a letter from the third party insurer requesting that esure provided it with details of the time, date and location of the incident and a description of the driver. All of this information had either already been provided by Mrs K or could have been asked of her. This information needed to have been followed up on promptly to increase the chance of a successful outcome for Mrs K.

The adjudicator set out some potential investigations that esure could have carried out. esure, in response, said that these would not necessarily result in having strong enough evidence. I agree that there is no guarantee that any investigation will provide conclusive evidence but I think that insurers have a responsibility to make reasonable attempts to hold a

third party accountable. In this case Mrs K had given esure good information about the third party and I think esure didn't do enough to follow up and investigate.

Although it eventually passed on the witness statement, esure's delays in passing on the information and its lack of a robust response to the third party insurers make it less likely that they will admit liability. While I can't be sure enough evidence would have been found, on the balance of probabilities, I think esure's actions have prejudiced Mrs K.

I find esure's failings mean Mrs K had little or no chance of having her costs paid by the third party and esure needs to compensate Mrs K so she doesn't lose out financially. I consider it would be fair for esure to treat Mrs K's claim as if it had been able to hold the third party insurer liable.

I also agree with the adjudicator that esure should pay Mrs K £200 for the upset and inconvenience she has experienced as a result of its poor customer service.

my final decision

For the reasons discussed above, my decision is that I uphold this complaint. I now require esure Insurance Limited to:

- Settle the claim as non-fault;
- make sure it is registered as non fault on all internal and external databases;
- reinstate any deduction made to Mrs K's NCD;
- recalculate the policy on that basis -reimbursing any necessary overpayment of premium;
- reimburse Mrs K's £300 policy excess; and
- pay Mrs K £200 for the upset and inconvenience she experienced.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs K to accept or reject my decision before 9 November 2015.

Sarah Brooks
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