

## The complaint

Mr T complains about how esure Insurance Limited (“esure”) told him about a claim and decided liability under his car insurance policy. The incident in question involved a named driver on Mr T’s policy, but for ease I’ll refer to him throughout.

## What happened

Mr T had a motor insurance policy with esure covering his car.

In May 2022 Mr T reported an incident to the police in which he said he was hit from behind by a third party on a motorcycle. esure was then approached by a third party who alleged Mr T had been involved in a collision with them.

On 1 June esure wrote to Mr T to tell him about the allegation. It gave him five days to respond.

Mr T didn’t respond in time so Esure handled the third-party claim and decided Mr T was likely at fault. It handled the third-party claim by agreeing a payment on 16 June.

Mr T responded to the letter on 18 June to esure’s fraud reporting email address. He said he thought the claim was a scam taking place against him.

In May 2023 Mr T’s policy automatically renewed and he paid in full. His premium had more than tripled due to the claim. He called esure and spent a considerable amount of time on several calls to try and find out what had happened.

He complained to esure. It apologised for the call waiting times and that it hadn’t updated Mr T about the claim. It paid him £75 compensation. But esure said it had investigated the claim correctly, and that it had the right to decide liability for the incident under the terms of its policy. The claim remained open and was paid on a ‘without prejudice’ basis which means that payments can be recovered if new information comes to light.

Mr T remained unhappy and brought his complaint to this service. He doesn’t agree with esure’s decision about the liability for the claim which he says was probably a scam. He says esure didn’t investigate the claim properly and asks for it to pay his increased premiums for the next seven years.

Our investigator looked into Mr T’s complaint and thought it would be upheld. She thought esure’s communication with Mr T hadn’t been very good and it hadn’t investigated the situation sufficiently. She thought esure should pay Mr T £200 compensation for his distress and inconvenience. She also said esure should defend the claim and if its costs weren’t recoverable then esure should mark the claim as non-fault on Mr T’s record.

esure didn’t agree with the view. Because it didn’t agree, this complaint has been passed to me to make a decision.

I issued a provisional decision to allow the parties to consider the matter further:

*Having read the file of evidence, I'm upholding Mr T's complaint in part. I'm issuing this as a provisional decision because the outcome I intend to reach is different from our investigator's.*

*The role of this service is an informal alternative to the courts. We don't have the power to punish businesses for doing the wrong thing or making mistakes. Instead, we look at the impact of those mistakes on customers and award compensation for distress and inconvenience caused.*

*The collision behind this complaint happened in early May 2022 and I've briefly described it above. The named driver on Mr T's policy alleged they were stopped when a motorcycle hit them. The claim from the motorcyclist was that the named driver reversed into them.*

*Mr T reported the incident to the police around the time it happened. I understand there was some video evidence provided as well.*

*esure pointed out that its policy requires that:*

*"You must tell us within 7 days of becoming aware of any incident resulting in death, injury, damage or loss, irrespective of whether this may lead to a claim under your policy, even if there is no damage to your car."*

*It says Mr T didn't comply with this requirement. This type of condition can be used by insurers to defend their customer's position if a third party brings a claim.*

*About three weeks later, esure received a claim from a claims management company acting on behalf of the third-party motorcyclist. It wrote to Mr T giving him five days to respond or it would settle the third-party claim. I can see Mr T's preferred method of correspondence was by email, but esure didn't use this method or try to ring him. We'd normally say using two different methods would be a suitable way of contacting a customer when critical information is needed.*

*Insurance companies often need to work quickly to handle claims, but a five-day deadline seems very short to me given that post may take a few days to arrive. Then Mr T would have to receive it, and deal with it.*

*The letter sent by esure says Mr T should make an urgent call to a named person about the claim being made against him. It also contains some wording about fraudulent claims and says Mr T can contact it by that method. Mr T did this, because he was concerned that the original incident was an attempt at a scam – in other words a fraudulent claim.*

*I don't know why Mr T didn't call esure and speak to the named person – but I can understand his alternative course of action because the letter does say he can report concerns to the particular email address.*

*Around this time, esure inspected the third-party motorcycle. I can see it had concerns about how the claim might progress because the engineer's report mentions them.*

*From that point, esure didn't update Mr T about his claim at all. I also can't see that it responded to his fraud report.*

*Nearly a year later, Mr T was told about his premium increase in the renewal documents, but he didn't respond to esure until full payment was taken by it.*

*He then spent several hours calling esure. It has apologised to Mr T for its call waiting times*

*being a problem.*

*Ultimately, esure (like other insurers) have the right to decide how it will handle a claim. The appropriate part of the policy wording is this:*

*“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 the claim in your name for our own benefit. You and anyone covered by the policy must provide all the information, documentation and help we need to do this.”*

*This wording is common in the industry and I think its use is fair here.*

*What this means is that esure are able to deal with the claim as it sees fit. I know Mr T feels strongly about this, but it's esure's right to adopt this approach.*

*That said, I don't think esure handled Mr T's claim fairly. In its final response to him, esure said it had “carried out the necessary validation checks and considered all available evidence in the case.”*

*At the time, it hadn't tried to obtain further information from Mr T, or inspected his car. Mr T had responded to its letter, albeit later than the deadline, and had raised his concerns to esure. And as I've said above, esure clearly had some concerns about the third party claim following the inspection of the motorcycle.*

*Taking everything into account, I don't think esure has acted fairly in how it dealt with Mr T's claim. It sent one piece of communication to him, with a very short deadline, then proceeded to handle the third-party claim. Mr T reported concerns, but esure seems to have failed to act on them further. Then it didn't contact Mr T with any information about how the claim was progressing. Mr T was then left at the following renewal to make a series of calls to esure over a few hours, with several calls dropped or not transferred.*

*I've thought carefully about Mr T's distress and inconvenience. Because esure didn't update him about the claim, I can't fairly say he suffered distress over a long period. I think I can say that his inconvenience was focused around one particular month in May 2023 when he'd paid for his renewal. Of course, he was distressed in May/June 2022 as well, but I'd expect some level of disturbance to normal life following the collision that had taken place.*

*But the most important part of Mr T's complaint seems to be about his liability for the collision and subsequent claim. And I don't think esure has acted unfairly in making its decision here. The policy wording talks about the decision it's able to make.*

*It's important that I say even if esure had investigated the claim more thoroughly at the time, for example by inspecting Mr T's car, it's likely to only say that a collision took place rather than who was at fault for it. So it's likely some element of fault may still apply to Mr T's policy and continue to affect his No Claims Discount and premiums.*

*That said, if esure had investigated or responded to Mr T's fraud report then it would have been better placed to defend the claim.*

*Likewise, if Mr T had reported his initial concerns to esure in early May as well as the police then esure may have been able to respond more effectively.*

*I appreciate Mr T will find my provisional decision disappointing, but I propose to uphold his complaint and require esure to pay him an additional compensation of £200 for his inconvenience and distress, in addition to the amount it has already offered to him. But I'm*

*not proposing to require it to do anything else.*

### **Responses to my provisional decision**

Neither party responded to my provisional decision.

### **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.

As both parties didn't respond to my provisional decision, my final decision and reasoning remain unchanged.

### **My final decision**

For the reasons set out above, my final decision is that I uphold this complaint in part.

esure Insurance Limited should pay Mr T total compensation of £275 for the distress and inconvenience it caused him because of its poor claims handling and communication. This includes the £75 already awarded.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 25 January 2024.

Richard Sowden  
**Ombudsman**