

## The complaint

Mr J complains esure Insurance Limited trading as Sheilas' Wheels ("esure") has unfairly decided to settle a claim against his policy on a split liability basis.

## What happened

The details of the complaint are well known to both parties, so I won't repeat them again here. Instead, I'll focus on providing my reasons for my decision.

## My provisional findings

I issued my provisional decision on 19 February 2024, I said I intended to uphold Mr J's complaint for the following reasons:

*"While it isn't for this service to decide who is liable for an incident, we will check to see that an insurer has made that decision in a fair and reasonable way, with due consideration of the evidence available.*

*In this case I'm not persuaded esure has done so. The incident is noted as taking place on a roundabout. esure has only provided claim notes from its systems in which it told Mr J as there were no independent witnesses of the incident taking place or CCTV footage of the area, the case would be settled on a split liability basis.*

*Mr J has disagreed with this, he has said no one mentioned how he could obtain local CCTV footage and maintains the third party drove into the side of his vehicle.*

*esure has not provided an accident report form, details of any third-party claim or evidence of how it investigated the incident location. From the details Mr J has provided I can see that the incident location in question isn't a typical simple roundabout. It appears to be a split roundabout with a main road running through it, it has various lane priorities and merge points. It therefore appears to me, on the balance of probabilities, it is possible the incident happened as Mr J has suggested. As such, without any evidence to the contrary provided by esure, I'm not persuaded esure has fairly and reasonably investigated the incident circumstances before reaching its liability decision.*

*To put things right, given esure has confirmed no payments have been made it should now record this claim as a notification only incident. It should update any internal and external databases as required and rework Mr J's new insurance premium to reflect this change.*

*To reflect the trouble and upset caused to Mr J in the way it handled the claim overall, I think it should also pay him compensation of £250."*

## Responses to my provisional findings

Both parties responded saying they accepted my provisional decision and had no further comments to make.

### **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.

Having done so, and as both parties have accepted my provisional decision, I see no reason to depart from it.

So, for the same reasons as set out in my provisional decision, I don't think esure has handled Mr J's claim fairly and I uphold this complaint.

### **Putting things right**

esure should now record this claim as a notification only incident. It should update any internal and external databases as required and rework Mr J's new insurance premium to reflect this change.

To reflect the trouble and upset caused to Mr J in the way it handled the claim overall, esure should pay Mr J £250 compensation.

### **My final decision**

My final decision is that I uphold Mr J's complaint against esure Insurance Limited trading as Sheilas' Wheels. I direct it to put things right as I have set out in the section above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 5 April 2024.

Alison Gore  
**Ombudsman**