DRN-3956582

The complaint

Mr C has complained about his car insurer esure Insurance Limited (Esure), as he feels the total loss settlement it paid him after his car was stolen was too low.

What happened

Mr C's car was stolen. Esure accepted a claim from him and said it would pay him £28,132 in settlement for his car. Mr C said that wasn't enough to let him replace his car. But Esure said it was a fair market value, so Mr C complained to the Financial Ombudsman Service.

Our Investigator noted that Esure had used trade guides to determine the market value for Mr C's car. And that the price Esure had settled on was within the range of values returned by two of the three trade guides, with the third being unusually high (an outlier) and so discounted. So she felt it had settled Mr C's claim fairly and reasonably.

Mr C said there were four relevant guide prices and none should be discounted – presenting a statical analysis of the figures to demonstrate that there was no outlier. He said an average of all four values would return a settlement figure of £29,625.50.

Our Investigator explained that Mr C's policy doesn't promise to settle a total loss claim based on a mean average of available values. And, in line with our approach, even if all four trade guide values were taken into account, the settlement offered by Esure was fair, falling as it did within the range of all those figures.

Mr C said that his policy implies an average will be used. And Esure had initially advised its settlement was based on an average. He said this service's approach was unfair and subjective. Our Investigator said her view hadn't changed. Mr C's complaint was passed for an Ombudsman's consideration.

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.

Mr C has a policy with Esure which says that in the event his car is stolen and declared a total loss, Esure won't pay more than the market value for the car. And the policy says 'market value' means:

"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…[and]… may not be the price you paid when you purchased the car."

I know Mr C believes this implies Esure will use an average of all the guides to determine a market value for his car. But that is not what the policy wording promises Esure will do. In any event, on this occasion Esure did look to offer a settlement figure based on the average of three of the four market values returned by the trade guides.

The trade guides returned the following values:

- £27,580
- £27,900
- £28,720
- £34,302

Esure used the lower three (the correct average being £28,067) to present a settlement figure of £28,132 from which it deducted an excess, before paying £27,132 to Mr C. Esure has caused some confusion because in its final response to Mr C it said it had discounted the lowest of the four values, using the other three to determine its settlement figure (the correct average in that case actually being £30,307). Clearly neither of those calculations actually results in the settlement Esure paid. But, the mathematical error and mistake in the letter aside, I have to decide if Esure's settlement of £28,132 is fair and reasonable.

This service has an established approach to considering if an insurer has fairly and reasonably determined the market value for a car. We'll check the values detailed by the trade guides. If any value is out of line with the majority of the figures returned, then we'll discount it. I appreciate Mr C's statistical analysis, presented to show that the highest of the four values above is not, in statistical terms, an outlier from/out of line with the rest. But our approach doesn't apply such a formal mathematical test. Rather we'll look at the range of values and if there is a significant jump between the lowest or highest value and the rest of the figures, we may discount that figure. Here there are three values all closely grouped together. And there is one which is significantly more. I'm satisfied that can reasonably be considered an outlier and, therefore, be discounted.

However, the second part of our approach means that, on this occasion, the discussion about discounting the highest value isn't really material to the outcome. That is because once we've established the fair range of reasonably applicable values, we'll check to see if the settlement paid falls within that range. If it does then the settlement will likely be fair and reasonable. Here the range is either: £27,580 to £34,302 or, if that highest value is discounted, £27,580 to £28,720. And Esure has paid £28,132 which sits satisfactorily within both of these ranges.

Esure does seem to have made an error in the way it calculated its settlement. But it seems that error was in Mr C's favour. And it also included an error in its final response letter, advising incorrectly that it had discounted the lowest of the four values from its calculation. Nevertheless, the settlement Esure paid did fall within the range of values returned by the guides. So, in line with our approach to considering this type of complaint, I'm satisfied Esure's settlement is fair and reasonable.

My final decision

I don't uphold this complaint. I don't make any award against esure Insurance Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 7 August 2023.

Fiona Robinson
Ombudsman