

The complaint

Mr B complains about esure Insurance Limited's ("esure") delay in cancelling his claim, and it being recorded as a fault claim.

What happened

Mr B reported an incident to esure but later asked them to cancel it. Mr B says, despite this and without carrying out any investigation, they didn't cancel the claim and they recorded the incident as a fault claim against him. So Mr B complained about esure's actions.

Esure responded and explained Mr B reported an incident and, although he then decided not to claim, they have to provide the third-party insurer a minimum of three months to present their claim. They said the three months had now been reached and no claim had been presented. They said they'd now closed the claim as notification only. They said this will still show on the Claims and Underwriting Exchange ("CUE") database as they have a responsibility to report all accidents and incidents to this database. They confirmed they'd never recorded this incident as a fault claim against Mr B. They explained, as they hadn't been able to determine a liability stance, they had this noted as partial responsibility while they investigated further and were awaiting additional information. They said they could see that on a number of occasions they requested additional information from Mr B, but they weren't able to obtain this.

Our investigator looked into things for Mr B. She thought esure hadn't made any error in not cancelling the claim sooner or in their recording of the claim. Mr B disagreed so the matter has come to me for a 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.

Having done so, I've decided not to uphold the complaint. I understand Mr B will be disappointed by this but I'll explain why I have made this decision.

My role requires me to say how a complaint should be settled quickly and with minimal formality and so I'll focus on what I consider to be the crux of the complaint and the main areas of dispute. I understand Mr B's main complaint relates to esure not cancelling the claim when he asked them to and how they've recorded the claim. So, I've looked to see whether esure have acted reasonably here.

Esure have provided their claim notes, and this shows when Mr B reported the incident, they noted the circumstances as Mr B and a third party collided while Mr B was approaching a bend in the road. The note says Mr B was unable to avoid the collision due to the speed the third-party was travelling. They also note Mr B doesn't believe he's at fault. I can see Mr B then emails esure to ask them to close his claim. The claim notes show esure then reassigned the claim as third-party damage only. The claim notes show esure then contacted Mr B to ask for further information. The notes show they wanted to discuss the

incident and liability with Mr B and also asked about witness details, but they weren't able to obtain this. I acknowledge Mr B says he provided esure with all relevant details when he first notified them of the incident, but often insurers will ask for clarity or further details. And in this case, I can see they did have further queries relating to liability so I can't say it was unreasonable for them to seek further information.

I've listened to call recordings where Mr B asks esure to close his claim. During these calls the call handlers explain they can't close the claim as there's a third-party involved so they must keep the claim open to allow them an opportunity to submit a claim. During one call, Mr B asks for his claim to be closed down with immediate effect. The call handler explains they're looking at partial responsibility here based on the incident circumstances, and because they've been made aware from Mr B's report that there's a third-party involved, they have to keep the claim open. The call handler explains the claim will need to remain open for three months in case the third-party claims, and if they don't, then the claim will be closed as notification only. Mr B clarifies no third party had claimed yet and no costs had been paid out so there's no reason the claim can't be closed. The call handler again explains the claim must remain open for three months.

I understand the claim has now been closed by esure and treated as a notification only incident, but I acknowledge Mr B's frustration this wasn't done sooner – and at the point he initially requested this. The information shows Mr B did notify esure of an incident, so I can't say they've acted unreasonably in recording this. It's clear Mr B no longer wished to claim and informed esure of this very soon after notifying them of the incident. I can see esure then updated their system and reassigned the claim as a third-party damage only claim but didn't close it down at that point. In such circumstances, it's usual industry practice for insurers to keep such claims open to allow any potential third-party to submit a claim. We generally don't expect insurers to keep these types of claims open for longer than 3-6 months if no third-party claim has been received. So, I can't say esure have treated Mr B unfairly in keeping the claim open. It's clear Mr B didn't wish to claim, but there remained the possibility a third party might and this was explained to Mr B, so it's not unreasonable for esure to have kept the claim open for three months.

I acknowledge Mr B's points that, at the point he was asking for his claim to be closed immediately, no third party had claimed at that point and no costs had been paid out. From the information I've seen, it's clear esure did take steps to update their system to reflect the fact that Mr B no longer wished to claim. But, as mentioned above, I can't say it was unreasonable for them to keep the claim open.

The next point I've looked at is how esure recorded the incident. Esure's records show they initially noted the liability stance as 'partial responsibility' while they carried out further investigations. Taking into account the incident circumstances, and the fact that esure didn't at that stage have any independent evidence, I don't think it was unreasonable for them to take this initial view. I have seen information which shows Mr B's other insurer informed him that esure has treated this incident as a fault claim, but I've seen no evidence that esure treated this as a settled fault claim.

What I believe has happened here, and which the information supports, is that, at the point Mr B took out a policy with the other insurer, this incident was showing as an open/outstanding claim on the CUE database. Esure confirm the incident was reported on the CUE database. The CUE is a database which records information about motor and home incidents, as well as other areas. An insurer has a duty to make accurate records. If an insurer is signed up to CUE, then they will make a record of any incident they've been made aware of, whether that leads to a claim or not. In this case, while Mr B asked esure to

cancel his claim, the fact is he'd notified esure of an incident so, given there's a duty on esure to make accurate records, I can't say they've acted unfairly in recording this incident.

I acknowledge Mr B was informed by his other insurer that a fault claim had been recorded and esure confirm they've never recorded the incident as a fault claim. So I've thought carefully about what I think, more likely than not, has happened here. Based on the information I've seen, and as explained above, I'm satisfied it was reasonable for esure to keep the claim open for three months. That being the case, under the claim status section of the CUE database, this incident would show as 'open/outstanding'. I'm persuaded this is the case as I've listened to a call recording where Mr B's other insurer mentions the fault claim and explains they've seen information which shows "...*the claim is still going ahead*". And they also explain Mr B will need to get confirmation from esure that the claim has been closed and there's no further action.

When carrying out a risk assessment, it's not unusual or uncommon for an insurer to rate an open/outstanding claim in the same way as a fault claim. That's because the claim isn't showing as a non-fault claim. So, given I've seen no evidence esure recorded the claim as a settled fault claim on the CUE database, and taking into account how information generally is recorded on the database and what information it shows, I believe it's more likely than not the incident was recorded as 'open/outstanding' - and this is why Mr B's other insurer rated the risk based on this being a fault claim. And, given that I've already explained why I don't think it was unreasonable for esure to keep the claim open for three months, I can't say they've acted unfairly here.

I understand Mr B will be disappointed, but I hope he feels reassured the incident hasn't been recorded as a settled fault claim and is now closed as notification only. I wish to reassure Mr B I've read and considered everything he has sent in, but if I haven't mentioned a particular point or piece of evidence, it isn't because I haven't seen it or thought about it. It's just that I don't feel I need to reference it to explain my decision. This isn't intended as a discourtesy and is a reflection of the informal nature of our service.

My final decision

For the reasons I have given, it is my final decision that the complaint is not upheld.

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

Paviter Dhaddy
Ombudsman