

## **The complaint**

Mr R complains about how esure Insurance Limited (“esure”) handled a claim under his motor insurance policy without his knowledge.

## **What happened**

Mr R has a motor insurance policy with esure. In June 2020 esure was contacted by a third party who alleged Mr R’s car had collided their vehicle.

esure sent Mr R an email and a letter telling him that he had five days to contact it, or it would handle, and pay, the claim.

Mr R denies receiving the letter. He also said esure used an out-of-date email address to contact him, so he didn’t receive it.

Because esure didn’t hear from Mr R, it recorded the claim on its system and an external database as being his fault.

Mr R found that when he tried to get cover elsewhere, his premium had increased because of the recorded claim. He complained to esure because he didn’t know about it.

esure said it had acted fairly and didn’t uphold his complaint. Mr R brought his complaint to this service.

Our investigator looked into Mr R’s complaint and upheld it. He said that esure couldn’t definitively show that it had sent out the notification of the collision to Mr R, so he thought esure should have done more to contact Mr R about the collision. He said esure should change the record of Mr R’s claim to show he wasn’t at fault and it should alter the external database to match.

esure didn’t agree with the view. It said it had used Mr R’s contact details about two months after the collision and he’d responded within one day, which meant that the email address Mr R had given them was correct. It said it had to deal with the claim made by the third party because Mr R hadn’t supplied it with any information to defend it, so it didn’t think it was fair to ask it to change the liability on the claim.

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

I issued a provisional decision not upholding Mr R’s complaint, which is below:

*I’m not intending to uphold Mr R’s complaint and I’ll explain why as I appreciate this will be disappointing for him.*

*I’ve looked at esure’s policy wording which talks about how it will handle claims. I can see this section:*

*“Claims Procedure*

*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."*

*I've not been provided with details of exactly what happened in the alleged incident, but I understand that Mr R was alleged to have left a note on a third party's vehicle taking responsibility for some damage and supplying his name and address.*

*I can see that the third party contacted esure and made a claim. I've not seen esure's claims notes about this incident, but I can see that it contacted Mr R using two other methods.*

*esure didn't have his phone number, so it sent a letter and an email.*

*I've said above that Mr R denied receiving the letter, and he said the email address was an old one. esure has sent this service details of the email addresses, and when they were updated, and I can see that it sent the email to the email address that was active on its system at the time.*

*esure has also said it sent another email to this same address following notification of another claim involving Mr R, and it received a reply within a day. This correspondence took place about two months after the incident described above, but I've not seen evidence of this.*

*Ultimately, because esure didn't hear back from Mr R, it didn't have any evidence to challenge the third party's allegations. In these situations, esure would use its rights to take over the claim and settle it with the third party. The ability to do this is common in the insurance marketplace and I think esure has acted fairly in doing this.*

*Mr R maintains that he didn't receive any information from esure about the claim. This service considers it best practice to send important information by at least two different methods and I can see from esure's evidence that it did so.*

*I've considered Mr R's comments about esure contacting him by phone, but I've not seen evidence that it did. And I can see that esure didn't have his phone number on its system until the following year.*

*I've also looked at Mr R's contention that his email address was an old one. I can't fairly say esure has been at fault for using the email address Mr R provided it with. It's Mr R's responsibility for keeping esure updated with his correct contact details.*

*Taking everything into account, I think esure did reasonably try to make contact with Mr R about the incident. But because it didn't hear back from Mr R, it was in a position where it had to deal with the third party claim. I don't think esure acted unfairly in what it did, so I don't propose to uphold Mr R's complaint.*

## **Responses to my provisional decision**

Mr R responded and didn't agree with my provisional decision. He says esure didn't contact him by email, letter or phone and he asks what proof esure has that it did.

## **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.

I do sympathise with Mr R's position as I know my decision will be a great disappointment to him.

As I said in my provisional decision, it's Mr R's responsibility to keep esure updated with his contact details. I've looked at the evidence from esure about the letter, and when Mr R updated his email address with it, and I'm satisfied that esure did reasonably send information to him about the third-party claim.

As Mr R hasn't provided me with any further evidence to consider, my final decision and reasoning remains the same as my provisional decision.

### **My final decision**

It's my final decision that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 3 August 2023.

Richard Sowden  
**Ombudsman**