

## **The complaint**

Mrs R complains about esure Insurance Limited (“EIL”) and the service they’ve provided to her following a claim she made on her motor insurance policy to repair damage to her electric car.

## **What happened**

The circumstances of the claim are well known to both parties, so I don’t intend to list them in detail. But to summarise, Mrs R held a motor insurance policy, underwritten by EIL, when she was involved in a road traffic accident. So, she contacted EIL to make a claim on her policy.

EIL arranged for her car to be inspected and repaired. And Mrs R was provided with a courtesy car while the repairs were completed by EIL’s nominated repairer, who I’ll refer to as “G”. But Mrs R was unhappy that the courtesy car wasn’t electric, and the fuel costs she incurred because of this. And she was unhappy with additional damage she felt was present on her car when it was returned to her. So, she raised a complaint about the above, and the fact she felt she’d been returned her car in a state that meant she was unable to drive it.

EIL failed to provide a complaint response, and instead they tried to engage with Mrs R to understand what additional damage was the fault of G. Mrs R was unhappy with the length of time this was taking, so she referred her complaint to us.

Our investigator looked into the complaint and upheld it in part. They were satisfied the courtesy car given to Mrs R was in line with the policy terms and conditions she held. But they accepted an independent engineer, who I’ll refer to as “H”, agreed some of the damage present on Mrs R’s was most likely the responsibility of G. And they felt there had been some avoidable delays during the claim process, as well as times where EIL hadn’t responded to communication from Mrs R. So, they recommended EIL pay Mrs R £200 compensation to recognise this, provide clarity on the additional repair work they should undertake on the guidance of H, and contact Mrs R to arrange these repairs.

EIL paid Mrs R the £200 recommended. And they confirmed the repair work H stated they should cover. But as Mrs R didn’t want G to undertake this work, they asked Mrs R to find a garage near here to provide a quote for the repairs, which they would then authorise. To date, this action hasn’t been taken. And Mrs R responded to our service explaining why she didn’t think the £200 compensation was enough, while also stating she had other information to supply which we’ve yet to receive. As Mrs R didn’t accept the entirety of our investigator’s recommendation, the complaint has been passed 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’m upholding the complaint for broadly the same reasons as the investigator. I’ve focused my comments on what I think is relevant. If I haven’t commented

on any specific point, it's because I don't believe it's affected what I think is the right outcome.

First, I think it would be useful for me to set out exactly what I've been able to consider, in line with our service's approach and the rules we work within. I note EIL didn't respond to Mrs R's complaint within the eight-week time frame they are afforded and so, we continued with our investigation, which I'd expect us to do. But I must also make it clear it isn't our role to handle Mrs R's claim on her behalf. And the rules we work within explain a business must be given a chance to handle a complaint within their own complaint process, before it is referred to our service. So, because of this, my decision will focus solely on the complaint Mrs R raised to EIL in March and April 2023, and the events that transpired up to our investigator's initial recommendation in July of this year. And when doing so, I will only be considering the evidence that's been made available to both parties. So, any concerns Mrs R has about events after this date, or any new information she wants to be considered, should be forward to EIL first for them to consider. And I'd expect EIL to respond within the time-period they are afforded, whether or not the claim remains on going.

I note our investigator's view set out their belief that the courtesy car Mrs R had been provided fell within the terms and conditions of the policy she held. While I can't see that Mrs R has specifically disputed this view, for completeness I've thought about it myself. And I'm satisfied the terms and conditions set out clearly that the courtesy car Mrs R would be provided for the duration of the repairs would be "*a Group A car such as a Nissan Micra or a Toyota Aygo.*" I can't see anywhere within the policy that Mrs R was entitled to a like for like car and so, an electric car as she wanted. The terms go on to explain *that "You will be responsible for the courtesy car, including paying for fuel"*. So, based on the above, I'm satisfied Mrs R was provided with a courtesy car in line with the policy terms she held, and that she would always be expected to cover the costs of the fuel. So, I don't think EIL need to do anything more for this aspect of the complaint.

I've then turned to the crux of Mrs R's complaint, which centres around the additional repairs she feels are required to her car, and the service EIL provided surrounding this.

From what I've seen, including H's report from June 2023, I think it's clear there has been additional damage to Mrs R's car that G were responsible for. So, I would expect EIL to cover the costs of the repairs H attributed to the actions of G. And from what I've seen, this is what they've offered.

While I accept it may have taken longer than Mrs R would've liked for EIL to reach this conclusion, I think it's reasonable for EIL to validate Mrs R's concerns about the additional damage. And, as this required instructing H for them to complete another inspection, I think this would've taken some time. So, I don't think I can say all the delays Mrs R encountered up to July 2023 were avoidable.

But that being said, I think it's clear there were some avoidable delays through the claim process. And from the contact notes I've seen, alongside emails Mrs R has sent, I do think EIL could've acted more proactively. And as G were acting on behalf of EIL, I think EIL are responsible for the inconvenience caused to Mrs R in needing to have further repair work arranged. So, as I do think EIL have acted unfairly, I've then thought about what I think EIL should reasonably do to put things right.

### **Putting things right**

When thinking about what I think EIL should do to put things right, any award or direction I make is intended to place Mrs R back in the position she would've been in, had EIL acted fairly in the first place.

In this situation, had EIL acted fairly, G who were acting on their behalf would've completed the accident repairs without causing additional damage. So, I think EIL should arrange to have this damage repaired. From what I can see, EIL have offered this, but Mrs R has refused to allow G to complete the additional work. While I appreciate why Mrs R would take this decision, I do think this was a decision of her own choosing. So, as Mrs R doesn't want EIL's approved repairer to complete the work, I think EIL were fair to allow Mrs R the chance to source her own repairer, close to her home address. But I'd still expect EIL to engage with Mrs R proactively to ensure this is done, and to support her through this process if necessary. So, I'd expect EIL to contact Mrs R to agree a way forward as soon as reasonably possible.

And I would also expect EIL to compensate Mrs R for the inconvenience she's been caused, up to the point of our investigator's initial outcome. Our investigator recommended EIL pay Mrs R £200 to recognise this, and I think this recommendation is a fair one, that falls in line with our service's approach and what I would've directed, had it not already been put forward.

I think it fairly reflects the avoidable delays Mrs R has encountered during this process, and the time she's had to spend chasing EIL when they haven't been proactive themselves. But I do think it also reflects the fact that not all of the delays were avoidable. There have been periods of time where EIL have needed to arrange new inspections and await reports, and I think they were fair when doing so. It also reflects the fact that some of the communication between Mrs R and EIL have related to Mrs R's complaint, and EIL's handling of it. And complaints handling is an unregulated activity that falls outside of our service's jurisdiction. So, when Mrs R is unhappy with EIL's complaint handling, I can't consider this within any award or direction I make.

I also don't think I'm able to say that EIL should compensate Mrs R for being without a car during this period of time, as the two reports compiled by H shown that Mrs R's car has increased its mileage significantly. So, considering the size of this mileage increase, I think it's reasonable for me to assume Mrs R has continued to use her car, even though she states it wasn't driveable. I also must note that in neither report does it list Mrs R's car as unroadworthy and so, I don't think I'm able to say that Mrs R was without access to a driveable car during the claim process. When it was being repaired, Mrs R did have a courtesy car and so, remained mobile.

I appreciate in recent communication with our service, Mrs R feels she has evidence that shows her car increased its mileage while it was with G. But this hasn't been made available to our service to date, and specifically before our investigators view in July 2023. So, this evidence would need to be supplied to EIL for their consideration alongside a new complaint if Mrs R wanted this to be considered. Even so, I want to make it clear the mileage increase between February and June 2023 was significant and so, at this point in time based on the information I have, I find it implausible that G would've been able to increase the mileage to such an extent in the time they had the car in their possession.

I also note Mrs R's belief that the £200 compensation fails to cover the costs she paid for the insurance policy since she made the claim. And she feels this should be refunded, as she hasn't had use of her car. Again, I want to refer Mrs R back to my finding above regarding her use of the car, considering the mileage. But even if I did think Mrs R was unable to use her car, any award I make wouldn't factor in the premiums she paid for the policy. This is because whether or not Mrs R was driving her car, it was on risk for EIL and so, the car was covered by the insurance policy she held. And even more crucially, when a claim is made on a policy, the full premium would then be applicable and payable in line with standard industry approach. So, this hasn't factored into my thinking when making my decision.

So, because of all the above, I am directing EIL to pay Mrs R £200 compensation. It is my understanding this has already been paid but if it hasn't, I'd expect EIL to process this payment, dependant on Mrs R's acceptance of this decision.

I also think EIL should proactively contact Mrs R to organise and arrange a suitable repairer to complete the additional repair work. But I must make it clear Mrs R herself will need to engage with this process.

Again, I want to make it clear this decision focuses on the complaints raised, and events that occurred, from February to July 2023. Should Mrs R have further complaints she wishes to be considered, these should be directed to EIL in the first instance before our service can consider further.

### **My final decision**

For the reasons outlined above, I uphold Mrs R's complaint about esure Insurance Limited, and I direct them to take the following action:

- Pay Mrs R £200 compensation, if it hasn't been paid already; and
- Proactively engage with Mrs R to arrange for the repairs of the damage identified by H as being the responsibility of G to be completed.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R to accept or reject my decision before 15 January 2024.

Josh Haskey  
**Ombudsman**