

## **The complaint**

Mrs G has complained about Calpe Insurance Company Limited's decision to settle a third party's claim against her car insurance policy.

All reference to Calpe as the lead insurer includes its agents.

## **What happened**

In February 2019 Calpe received a claim from a third party insurer for damage they said Mrs G had caused. They said somebody had witnessed Mrs G's car reverse into their insured's car at a supermarket car park and drove off. The third party wasn't in the car which was parked at the time.

The witness said the car was moving very slowly and the impact was light, but thought the driver would have been aware of it. When the third party returned to her car, the witness told her what she saw. The third party identified scratch damage to the rear of her car which she said wasn't there before. She made a claim through her insurer.

Mrs G told Calpe she didn't make contact with the vehicle, but she was in the car park that day.

Calpe accepted fault for the incident on a 'without prejudice' basis. Mrs G's policy has a £3,000 excess. Calpe told Mrs G she owed it £1,130.09 in costs to settle the claim. Mrs G was very unhappy about this. But Calpe said the engineer who inspected Mrs G's car identified damage consistent with an impact. And because there was an independent witness, Calpe said its decision was correct.

Mrs G remained unhappy and asked us to look at her complaint. She said she'd contacted the supermarket to request CCTV footage. The supermarket checked and said it couldn't view a collision from the location of the camera.

In summary our investigator found the following:

- Calpe had failed to contact the supermarket to request CCTV footage. Even though following Mrs G's enquiries, there was insufficient evidence of the collision, he thought Calpe hadn't properly investigated the claim.
- The engineer who inspected Mrs G's vehicle focused on an area at the front of the car. But the witness said Mrs G's car had reversed into the other car. So the engineer hadn't provided any meaningful comment or assessment on the correct area. The engineer suggested it should review photos of the other car to check for consistency with damage – as Mrs G said it was already on her car and not caused by the incident. But Calpe didn't follow this up.

So the investigator recommended Calpe reconsider its decision about liability. He thought Calpe should contact the engineer who inspected Mrs G's car and ask it to provide comments on the area the witness said was impacted. He said if the engineer's follow up

report was consistent with the independent witness, then he thought Calpe's decision to accept liability for the incident would be fair.

But he thought Calpe had caused distress and inconvenience to Mrs G by its handling of the claim. For this he recommended Calpe pay her £150 compensation.

Calpe didn't agree and asked for an ombudsman to decide. It hasn't provided any further comments.

Mrs G accepted the investigator's view.

### **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.

We don't decide liability as this is the role of the courts. But we can look at whether an insurer reached its decision reasonably and in line with the policy. Calpe has a very common term which says it can make a decision how best to settle a claim in Mrs G's name. This means it might make a decision Mrs G doesn't agree with, but the policy allows it to do this. We don't disagree with this term in principle provided an insurer can show it's treated its customer fairly when applying it.

In this case, I'm not satisfied that Calpe properly investigated the claim. I'll explain why. The witness reported that the third party's car was hit by a car with Mrs G's description and registration while reversing.

From their account I think it's clear that the area of damage to Mrs G's car for inspection would be to the rear. However, the engineer who inspected Mrs G's car focused on damage to the front right bumper of her car. It's not clear as to what instruction the engineer was given by Calpe before the inspection.

Calpe said that the engineer also identified damage to the rear of Mrs G's car. This is correct. But his comments are limited to: *"Owner advises damage to RHR bumper is old damage prior to current insurance policy being taken out."* So I think it is clear that the engineer didn't inspect the rear of the car in order to assess whether it was likely involved in a collision with the third party. This after all was the purpose of the inspection. However, the engineer underlined the following recommendation:

*"It would be our suggestion we inspect third party vehicle to assist with quantifying consistency."*

Although Calpe received an engineer's report from the third party, no photos of their car were provided or requested by Calpe in order to follow up on the engineer's recommendation. So I don't think the engineer's report – focusing on damage to the front of Mrs G's car – was of value in determining liability for this incident.

Calpe said that even though it didn't ask the supermarket for CCTV footage, it didn't change the outcome as there wasn't any clear footage available. This is true. But Mrs G told Calpe she wasn't involved in a collision. And so as the insurer I think it should have promptly sought evidence to establish liability. Instead it was Mrs G who approached the supermarket and asked for evidence.

So I agree with the investigator's view and I don't think Calpe has been reasonable to Mrs G. I think it hasn't done enough to properly investigate the claim. So I think it should reconsider

its decision about liability and contact the engineer to provide comments on the rear of Mrs G's car. I think Calpe should pay Mrs G £150 compensation for the distress and inconvenience its handling of the claim has caused her.

If an engineer concludes that the damage to the rear of Mrs G's car is consistent with the damage claimed for by the third party, then in addition to the independent witness statement, I think it would be reasonable for Calpe to settle the claim as a fault claim. But in any event, the claim costs should be limited to reasonable third party costs and not include Calpe's costs to investigate the claim, such as the engineer's report. The costs of handling a claim is part and parcel of providing insurance.

### **My final decision**

My final decision is that I uphold this complaint. I require Calpe Insurance Company Limited to do the following:

- Reconsider its liability decision for the claim made in February 2019 against Mrs G's policy by obtaining a further comment from the engineer in relation to the damage to the rear of Mrs G's car.
- Pay Mrs G £150 for the distress and inconvenience its poor handling of the claim caused her.

Calpe Insurance Company Limited must pay the compensation within 28 days of the date on which we tell it Mrs G accepts my final decision. If it pays later than this it must also pay interest on the compensation from the date of my final decision to the date of payment at a simple rate of 8% a year.

If Calpe Insurance Company Limited considers that it's required by HM Revenue & Customs to withhold income tax from that interest, it should tell Mrs G how much it's taken off. It should also give Mrs G a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs G to accept or reject my decision before 16 October 2020.

Geraldine Newbold  
**Ombudsman**