

## The complaint

Mrs M complains about a claim made against her under her motor insurance policy she has with Calpe Insurance Company Limited.

## What happened

On 17 April 2020 I issued a provisional decision in relation to this complaint. In summary, I thought that Mrs M needed to pay for the damage that was caused to the third-party vehicle. But I thought that Calpe ought to revise the amount that Mrs M needed to pay.

The background to this complaint, as detailed in my provisional decision is as follows:

*"In July 2019, Calpe received notification that Mrs M's car had been in a collision. The allegations were that Mrs M collided with a car while changing lanes and caused damage to the third-party car.*

*The third-party have stated that Mrs M didn't stop at the scene and that it had to follow her to get her registration plate information, car make and model.*

*Calpe approached Mrs M about the incident. Initially, Mrs M said that she hadn't been involved in a collision at all and that she had no recollection of being in the location of the incident on that day. Mrs M later states that she remembered the incident but doesn't think she collided with the third-party car. She says she remembers some impact and thinks she might have hit the curb.*

*Calpe sent an engineer to inspect Mrs M's vehicle. It also received a report from the third-party insurer. Based on this information, it decided that Mrs M was at fault for the collision and settled the claim.*

*Mrs M has a policy excess of £3,000. Calpe paid £1917.68 to settle the claim and so it has said that that is what Mrs M needs to pay. It told her that if she didn't pay this amount then it would cancel her policy.*

*Mrs M doesn't agree that she should have to pay. She says she doesn't believe she was at fault for the collision – this is because the third-party car was behind her at the time, and so she says that the third party is at fault because it collided with her. Mrs M also still maintains that she doesn't recall a collision happening. Because of this, she doesn't feel she should have to pay for the repairs.*

*Our investigator looked into things for Mrs M. He thought that based on what he'd seen, Calpe had acted fairly when dealing with Mrs M's claim. And that it hadn't done anything wrong.*

*Mrs M didn't agree with our investigator. She maintains that she isn't responsible for the claim. Because Mrs M didn't agree, her complaint has been passed to me to decide on the matter."*

Calpe responded to my provisional decision to say that it agreed with the provisional decision. Mrs M didn't respond with any more information for me to take into account.

### **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.

Because Calpe agreed with my provisional decision, and Mrs M didn't respond with any additional points for me to consider, I see no reason to change my provisional findings, I have copied these below.

*"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 don't intend to uphold Mrs M's complaint. But I think that Calpe needs to revise the amount that Mrs M needs to pay to settle the claim. I'll explain my reasons below.*

*It isn't my role to determine who was liable for the damage caused to the third-party car; that would be a matter for a court of law. What I'm deciding is whether Calpe has acted in accordance with the terms and conditions of the policy and whether it has dealt with the claim fairly.*

*In line with most insurers, the policy says that Calpe can take over the settlement of the claim. So, it can decide whether to defend a claim or settle it. That might mean Calpe makes a decision Mrs M disagrees with, as has happened here.*

*It's difficult to know what happened based on what Mrs M has told us. Initially she told Calpe she wasn't involved in the collision, she then said she remembers impact to the car but thought this was the curb. And she's then said that she wasn't at fault because the third party collided with her. Based on these differing testimonies, I don't think Mrs M can be certain about what happened.*

*I've seen photos of the third-party car which shows there is damage. Because Mrs M didn't stop at the incident, the third party has said that they followed Mrs M in order to get her registration number. Mrs M has also said she remembers being at the same location as the incident on the day. With these things in mind, I think Calpe did enough to determine that there was a collision involving Mrs M, and damage was caused to the third party's car as a result of the collision.*

*I need to now be satisfied that Calpe have done enough to investigate what happened and assessed the fairest way to settle the claim.*

*Calpe has sent us two different reports to show how it assessed the claim. The first report I've seen is the assessment of the damage to Mrs M's car. Mrs M tells us that the engineer agreed that there wasn't any damage to the car that could have been caused by the collision. Looking at the report, I don't think it says this. The report suggests that Mrs M's car was in a poor condition, and that it had pre-existing damage. The report says that because of this, it's difficult to be able to identify what damage, if any, might have been caused by the collision without further information about the incident itself.*

*The second report is from an independent assessor. This report suggests the damage to the third party's car is consistent with the third-party's account of what happened. It also says that it's possible that the damage to Mrs M's car could be minimal to non-existent.*

*I can see that Mrs M explained to Calpe that the third-party driver must have been driving too fast as she checked her mirrors before changing lanes and she didn't see the car at this point. Calpe have stated that there aren't any speed camera's in that area and so it can't fairly say that this was the cause of the collision. Generally, it is difficult to establish what speed someone was driving at. And Mrs M's varying account of what happened undermines what she's said about the other driver's speed. Because of this, I think Calpe have acted fairly in saying they can't conclude that the cause of the collision was the third party was driving too fast.*

*Based on the information Calpe have collated about the incident, I think it has fairly assessed the claim. And so, I agree that Mrs M needs to pay what is outstanding for costs incurred to the third party.*

*Calpe has said that Mrs M owes £1,917.68 in total. I agree that Mrs M should pay for the costs incurred to the third party, which total £1,725.68. But Calpe has also added charges for 'claims investigation' and 'vehicle inspection'. While I don't doubt that these are fees incurred by Calpe, these costs relate to their investigation of the claim. I don't think its fair to ask Mrs M to pay for the costs Calpe incurred in providing insurance, and so I think Mrs M should pay £1,725.68.*

*Mrs M has also stated that she doesn't want Calpe to cancel her policy. Calpe said it would do this if Mrs M didn't pay the excess due. Calpe say it hasn't yet cancelled Mrs M's policy. And I don't think it would be fair for it to do this if Mrs M is still paying the premiums. So Calpe should continue to provide Mrs M insurance, while she continues to pay for it.*

*Mrs M will need to pay Calpe what she owes for the repairs. But If Mrs M can't pay in full, Calpe will need to communicate with Mrs M to agree a fair and reasonable repayment plan."*

### **Putting things right**

Calpe should revise the amount Mrs M needs to pay for the damage to the third-party vehicle to £1,725.68. If Mrs M can't pay the full outstanding balance in one payment, then Calpe will need to communicate with Mrs M to agree a fair and reasonable repayment plan.

### **My final decision**

For the reasons set out above, my decision is that Caple Insurance Company Limited needs to revise the amount Mrs M has to pay in respect of damage caused to the third-party vehicle to £1,725.68.

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

Sophie Wilkinson  
**Ombudsman**