

The complaint

Miss T has complained about her car insurer Calpe Insurance Company Limited because it declined a claim she made to it following an accident and cancelled her policy, accusing her of fraud.

What happened

Miss T reported an accident to Calpe in February 2021. She was initially claiming through the other driver's insurer but Calpe did interview Miss T in March 2021. At the time it was satisfied that she was credible and this was likely a genuine non-fault accident. However, the other insurer wouldn't settle the claims made against its policyholder's cover. The other insurer detailed various concerns it had to Calpe. In October 2021 Calpe interviewed Miss T again. This time the interviewer raised various concerns, in line with those detailed to Calpe by the other insurer. Calpe then decided to decline Miss T's claim and cancel her policy on grounds of fraud. Miss T complained to us.

Our Investigator noted that Calpe hadn't provided much persuasive proof that Miss T had been involved in or made a fraudulent claim. So he felt Calpe had acted unfairly and unreasonably in relying on the fraud condition on the policy. He said it should reinstate the policy, remove the record of the cancellation that had been logged as well as write a letter confirming this was overturned, consider the claim and pay Miss T £150 compensation.

Miss T did not respond. Calpe objected to the view. It said both it and the other insurer had concerns about the accident, which should not be ignored.

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 understand that Calpe has some concerns about this accident. But Calpe knows that this service expects insurers wanting to rely on a fraud condition to decline a claim and cancel or void a policy, to present strong evidence to support such an accusation. That is because fraud is a serious matter with significant consequences for a policyholder. An insurer having some concerns, even a number of concerns, and/or "a feeling" about a claim may not be enough to satisfy this service that reliance on the fraud condition of the policy is fair and reasonable.

Here I think it is of note that Calpe first interviewed Miss T within about a month of the accident. Calpe's investigator at that time – when forming his own conclusions about Miss T and the incident – found no issues for concern. In fact, he found Miss T credible and felt that a genuine incident, which was not Miss T's fault, had occurred. In doing that he had available to him photos of the scene taken after the incident once the cars had been moved, he undertook on-line investigations of Miss T and he was also aware that the other insurer had some concerns, although not what they were. He concluded it was unclear why, from what he had seen, that concerns existed.

It was several months later when Calpe received detail from the other insurer. That detail caused Calpe to interview Miss T again. But other than sharing its concerns the other insurer hadn't presented any proof to Calpe that Miss T was involved in a staged incident. For example, there were no reports comparing the cars' damage. And no additional photographs from the scene were provided.

Having seen the report from Calpe's second investigator, certain assumptions seem to have been made when interviewing Miss T. One concern raised by the other insurer was that its policyholder could not describe Miss T. Calpe's second investigator, based on how Miss T presented herself in interview in October 2021, some eight months after the incident, said Miss T was "striking", such that it was implausible the other driver wouldn't have been able to describe her. And when Miss T said she looked different then, in October 2021, from earlier in the year when she had then been a new mother, the investigator suggested that was an unreasonable description for Miss T to use as her baby, at the time of the incident was eight months old. I think Miss T's explanation is quite reasonable. I'm also aware she didn't get out of the car straight-away. I think the investigator hasn't approached this in a fair manner, not least as his view of how Miss T appeared, eight months after the incident, doesn't reasonably establish how the other driver is most likely to have viewed Miss T. And I also think it's unreasonable for Calpe to punish Miss T for any failure in the other driver's memory or lack of ability to describe Miss T.

The investigator also reported some concerns he had about the position of the debris in the road. But I think it's relevant that he did so seeing the same photographs of the scene as the original investigator. Whilst it is possible for two different people to come to different conclusions, I think it's telling that the second conclusion was only reached after the other insurer's concerns had been made known. And I don't otherwise find the concerns raised in these respects to be persuasive – not least as the second investigator hasn't sought any detail about the exact position of the cars when they came together. And no formal analysis of road speed, positioning or impact data has been given which might support the conclusion stated.

I know the second investigator found Miss T had been going in the wrong direction for her stated purpose of the journey – going shopping. I can understand that this would be a concern. But I see Miss T explained that she had needed to call back home to get her purse. Again I think the investigator took an overly critical and, therefore, unreasonable view of this explanation – stating he felt it was implausible as Miss T's partner and sister were with her, so they could have paid for the shopping instead. He seems to have ignored Miss T's comments that her partner's bank card was in her purse and that it wasn't appropriate, even for a short-time, for her to borrow money from her sister. I think Miss T was asked the purpose of her journey, in March and October, and her story remained the same – going to the shops. I haven't seen anything from Calpe that disproves that. And Miss T's later clarification that, on the way to the shops, she had to turn round and go home, doesn't change the fact that the purpose of her being on the road that night, was to go to the shops.

Overall I don't think Calpe has completed a sufficient investigation or gathered sufficiently persuasive evidence to support its accusation of fraud. As such I think it acted unfairly and unreasonably in applying the fraud condition to decline the claim and cancel or void Miss T's policy. It follows that I think it must now set that right by putting Miss T back in the position she would have been in, as identified by our Investigator, if it had not acted unfairly and unreasonably. It will also have to pay her £150 compensation for the distress and inconvenience it has caused her, which I think is fair and reasonable in this instance.

Putting things right

I require Calpe to:

- Reinststate Miss T's policy and consider her claim in line with the remaining terms and conditions of the policy.
- Remove the record of the cancellation or voidance from its own and any industry database.
- Provide a letter to Miss T confirming that the cancellation or voidance has been overturned.
- Pay Miss T £150 compensation.

My final decision

I uphold this complaint. I require Calpe Insurance Company Limited to provide the redress set out above at "Putting things right".

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss T to accept or reject my decision before 13 December 2022.

Fiona Robinson
Ombudsman