

## **The complaint**

Mr A complains that Calpe Insurance Company Limited (Calpe) unfairly cancelled his policy and is pursuing him for third party losses following an accident, under his motor insurance policy.

## **What happened**

In October 2021 Mr A was involved in an accident when driving, where he collided into the back of another car. He didn't claim for damage to his car under his policy. But the third-party vehicle was written-off and Calpe settled the claim. Mr A's policy was subsequently cancelled because he didn't cooperate with Calpe's request for information.

Mr A says he was treated unfairly by Calpe. He says English isn't his first language and he didn't understand the process when making an insurance claim. He says he didn't initially receive the forms he was required to complete. And the advice agencies he approached, for help completing in the forms, didn't have any appointments available. Mr A says he told Calpe he needed help to understand the forms, but its agent told him this wasn't its problem.

Mr A says he questioned why the policy was cancelled. He could understand why his claim was cancelled but not his insurance. This cost him more money to set up a new policy. Mr A says he wants Calpe to refund all his premiums from the inception of his policy in 2019 up until it was cancelled.

Calpe says it contacted Mr A and provided him with its request for information and form to complete by both post and email. It says this information was provided on several occasions. It says Mr A only mentioned his understanding of English as an issue after the policy was cancelled, when there had been a number of telephone conversations where this wasn't mentioned.

Mr A didn't think this was fair and referred his complaint to our service. Our investigator upheld his complaint. He says Calpe's policy terms allow it to cancel Mr A's policy if he fails to cooperate with it in relation to a claim. However, he found that Mr A had told Calpe two days before it cancelled his policy that he doesn't understand English. He thought Calpe could've assisted him or allowed an extension for Mr A to arrange help in completing the forms.

Our investigator thought that as Calpe was aware of Mr A's issue with English, and failed to make a reasonable adjustment for this, it wasn't fair for it to cancel his policy and pursue him for the cost of settling the third-parties claim.

Calpe disagreed. It says Mr A was made aware on a number of occasions that he needed to respond in a timely manner. It also says his correspondence post cancellation shows that he was able to understand its documentation.

Because it disagreed with our investigator, Calpe asked for an ombudsman to consider the complaint.

It has been passed to me to decide.

### **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've decided to uphold Mr A's complaint. Let me explain.

I've read Mr A's policy terms to understand what is expected of him in the event of a claim being made under his motor insurance. The relevant terms are set out under the heading "Cancellation/Cooling Off Period". The terms say:

*"We, the Underwriters or Your broker have the right to cancel Your Policy at any time by giving You seven days' notice in writing where there is an exceptional or valid reason for doing so. The cancellation letter will be sent to the latest address We have for You and will set out the reason for cancellation. Exceptional or valid reasons may include but are not limited to:*

*ii) Where You are required in accordance with the Terms of this Policy Booklet to cooperate with Us, or send Us information or documentation and You fail to do so in a way that significantly hinders Our ability to process a claim, or Our ability to defend The Underwriters interests We or your broker may issue a cancellation letter to advise You and We will cancel Your Policy if You fail to co-operate with Us or provide the required information or documentation within the seven day cancellation notice period.*

*...If a claim has been made, We may cancel Your cover but not refund any premium. If You are paying by instalments, You must still pay the remaining instalments."*

I think the terms are clear that Mr A was expected to provide the information Calpe requested. If not, the policy can be cancelled.

I've looked at the claim records Calpe provided. I can see that Mr A contacted it by phone to report the accident on 18 October 2021. The call was cut off after some initial details of the accident had been provided. An accident report form was sent to Mr A by email the following day. Calpe then called Mr A back to obtain further details of the accident. I can see it advised him that a form had been sent and an engineer will be instructed to look at his vehicle.

The records show the third party involved in the accident called Calpe on 21 October 2021 to make a claim. On 27 October there is a note that states Mr A's car is a total loss under a category S. On 31 October the records show a seven-day cancellation notice was sent to Mr A. Calpe called Mr A on 1 November advising him it needed the form and the requested documents within seven days, or the policy would be cancelled.

The records show Mr A advised he hadn't seen the form yet. Calpe's agent says it will post and email the form again. It also advises Mr A to check his junk email folder. The note says Mr A didn't think the third party held a driving licence as she wouldn't show it to him at the time of the accident. Calpe's agent says the third party didn't have to show her licence to Mr A, and advised that such an issue would be a matter for the police.

I can see an internal note dated 7 November 2021 requesting Calpe's underwriting team to agree a cancellation of the policy. Calpe called Mr A on 16 November to confirm the policy was due to be cancelled. The note says Mr A told Calpe's agent he had sent the documents after the call last week. Calpe's agent confirmed it was two weeks since the last call and advised Mr A to email back copies of the form and the requested documents to avoid

cancellation.

Another internal note is recorded on 19 November 2021 confirming the policy can now be cancelled. The records say Mr A was not cooperating and had ceased communication.

On 22 November Calpe emailed Mr A to say it was settling the claim for the third party. As Mr A had failed to cooperate it would pursue him for these costs. Later that day the records show Mr A called Calpe back. He says he was expecting a call back last week. Calpe's agent says this wasn't agreed. The records say Mr A told Calpe's agent he doesn't understand English. Calpe's agent told him he had had a month to advise he was having issues completing the form.

The record of the call log from 22 November 2022 says Mr A advised he hadn't received Calpe's form. He then advised he had only received it last week. Calpe's agent told Mr A the information he was providing was conflicting. The call is said to have then ended with Mr A hanging up the phone.

From the records I can see the policy was cancelled with effect from 24 November 2022.

Mr A called in five days later. The note says he was being assisted by a co-worker. It says he had posted the required documents to Calpe by registered post on 25 November 2022. Mr A was informed the policy had been cancelled. Mr A called in again with the assistance of the co-worker to raise a complaint about the handling of his claim, given concerns that he couldn't understand the forms provided.

Having considered the records, I acknowledge Calpe's view that Mr A didn't mention he had an issue understanding English until late in proceedings. But I can see that he did tell it he had issues understanding English two days prior to the policy cancelling.

Calpe refers to the correspondence Mr A sent, which it thinks contradicts his claim about not understanding English.

I've thought about this point, but this correspondence was sent after the policy had cancelled. From the records provided Mr A had managed to get some assistance by this point. I can see that Mr A was sent a number of letters telling him his policy would be cancelled and of the need to provide information. I think it would have been prudent for him to have sought help at an earlier stage. But I also acknowledge his comments that the advice agencies he approached were busy and an appointment wasn't available for several weeks.

I asked Calpe to provide any recordings it had of the calls with Mr A. It sent six calls in total. I've listened to these calls. Mr A doesn't tell Calpe's agent that English isn't his first language or that he struggles to understand the forms until the call on 22 November 2022. But I do think it's evident from listening to the earlier calls that English isn't his first language and he's struggling at times to understand Calpe's call handler. He then explicitly says he, "*can't understand English 100%*" in the call on 22 November.

Having considered all of this I think that once Calpe was made aware Mr A had difficulties understanding English, it should've tried to help him. The policy had yet to be cancelled at this point. I can't see that Calpe's agent made a reasonable attempt to discuss the difficulties Mr A was having responding to the information requests or to find out what could be done to help him. For example, this could've been done by extending the time for him to complete and return the accident form so that he could have time to obtain help.

From the call recordings, it's apparent that Mr A was eventually able to obtain help. The lady

who introduces herself over the phone explains that he was “*doing some work for her*”. She says that Mr A didn’t understand the forms he’d been sent, which is the reason for the delayed response.

Based on what I’ve seen I think it’s clear Mr A had limited options available to him to gain the assistance he needed. I think more care was needed on Calpe’s part to ensure it provided reasonable assistance to Mr A. Had this happened I think it’s likely that he could’ve avoided the cancellation of his policy, and ultimately Calpe pursuing him for the third party’s losses.

Having considered all of this I don’t think it’s fair that Calpe pursues Mr A for the losses involved with the third-party’s claim. I can see that he has a £3,000 excess on his policy that he is responsible for. But I think it’s fair that the remainder of the claim is covered under Mr A’s policy. I don’t think Mr A’s policy should’ve been cancelled. Calpe should amend any record to remove reference to this being due to a breach of the policy terms and refund any cancellation charges it collected. If Mr A thinks he has incurred higher costs with his new insurer as a result of the cancellation, he can contact it to confirm the cancellation was applied in error.

I can’t agree with Mr A that Calpe should refund all his premiums back to 2019. He has benefitted from having this insurance in place. However, Mr A didn’t benefit from the premiums paid from 24 November 2021 onwards because of the cancellation. It’s reasonable that Calpe refunds these premiums plus 8% simple interest.

I’ve thought about the impact all of this this must have had on Mr A. Clearly, he found the claims process frustrating. It must also have been distressing for his policy to be cancelled and be faced with paying the third party’s losses because he didn’t understand Calpe’s information requests. Mr A also had to arrange for alternative cover to be provided. In these circumstances I agree with our investigator that Calpe should provide £300 compensation for the distress, frustration, and inconvenience it caused.

### **My final decision**

My final decision is that I uphold Mr A’s complaint. Calpe Insurance Company Limited should:

- pay Mr A £300 compensation for the distress, frustration and inconvenience it caused;
- reduce the amount owed by Mr A in relation to the claim to £3,000;
- amend its records for the cancellation to show there was no breach of the policy terms and reimburse the insurance premiums Mr A paid from the date of the cancellation on 24 November 2021 onwards, plus 8% simple interest until this amount is paid;
- reimburse any cancellation fees;

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr A to accept or reject my decision before 17 January 2023.

Mike Waldron  
**Ombudsman**