

The complaint

Mr S complained because Calpe Insurance Company Limited (Calpe) declined a claim he made on his motor insurance policy.

Calpe is the underwriter of this policy ie the insurer. Part of this complaint concerns the actions of a company, I'll call X, who are the administrators of the policy. As Calpe has accepted it is accountable for the actions of X, in my decision any reference to Calpe includes the actions of X.

What happened

Mr S made a claim on his car insurance policy when he said his car was stolen. Mr S gave a statement to Calpe's investigators and was later asked to attend a second interview with the investigators. Calpe ultimately declined the claim. It said Mr S gave a different version of events in his second statement compared with the first statement. It also said the information he provided about the payments he made to purchase the car and when they were made, didn't match the details given by his friend who sold him the car. It said Mr S had provided information that it believed was fraudulent, false, or exaggerated.

Mr S complained about its decision, but Calpe didn't change its position. As such, he brought his complaint to our service because he thought it was unfair it declined his claim, given the length of time that had passed between his initial statement and the second one taken by the investigators.

Our investigator thought Calpe's decision to decline the claim was fair. He thought the version of events Mr S gave Calpe was fundamentally different to what he told the claim investigators. He thought its investigation into the claim was of sufficient depth and quality to reach the decision it did. Mr S didn't accept our investigator's opinion and asked for an ombudsman's decision. So, the complaint has been passed to me to decide.

I issued my provisional decision on 3 February 2023 in which I said:

"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 intend to uphold this complaint, I'll explain why.

It's not the role of our service to say whether Mr S committed fraud or not, that's something a court would decide. So, I've thought about whether Calpe acted in line with the terms and conditions of the policy, carried out a fair investigation, reviewed all the evidence available to it and if its decision was fair and reasonable.

The policy provides cover against loss or damage caused by theft and in the case of a fire or an accident. Mr S says when he discovered his car was missing, he phoned and notified the police. I can see he then provided Calpe with a crime reference number which enabled it to obtain a police report. And as I've seen no evidence to the contrary, I'm persuaded Mr S is no longer in possession of the car. Ultimately, I'm satisfied Mr S has done enough to show he suffered a loss and had grounds to make a claim. But it doesn't automatically follow that

the claim should be paid, that would depend on the other terms and conditions of the policy.

The terms and conditions of Mr S's policy state:

"If You or anyone acting on Your behalf Makes any claim or any part of any claim that is fraudulent, false or exaggerated or supported by any fraudulent device;

We or the Underwriters may:

- Immediately cancel or avoid Your Policy and/or all other Policies which You have with Us from the date of the claim arising.*
- Refuse to pay the claim in its entirety...."*

Calpe thinks Mr S provided information, in relation to the claim, which was fraudulent, false or exaggerated. It is therefore for Calpe to demonstrate this. As it had concerns about the veracity of the claim, I think it was right to investigate this further. I've carefully considered the details of the investigation it carried out and its conclusions. While I accept its concerns, I'm not satisfied its provided sufficient evidence to show Mr S's claim was fraudulent.

At Calpe's request, Mr S provided copies of his bank statements and he has explained that the payments for the car were made to his friend (the seller) via bank transfer and cash payments. Mr S also informed the investigators he didn't have evidence to account for the last £5,000 cash payment he said he made to him. His statements show a bank transfer was made from his account to an account in the seller's name and he also provided evidence that ownership of the car was transferred to him on the same date. His statements also show cash withdrawals as he stated. So, I think he has done enough to show he paid for and owned the car.

Mr S said after an initial deposit he made when he took possession of the car, he made further payments over two to three months, I think what he said was reasonable and I find the bank statements he provided support his account. I accept that Mr S's recollection of how he paid for the car differs to that of the seller. On balance, I'm more persuaded by Mr S's recollections than what the seller said – given the evidence he's provided which supports his version. I also don't think Mr S can be held responsible for the seller's statement. Furthermore, I don't find the discrepancies between his statement and that of the seller are enough to say Mr S's claim wasn't valid.

Calpe also thinks Mr S gave false information in relation to the circumstances of the claim. It said there were fundamental differences between Mr S's initial statement to its investigators and his second statement to them. I must agree there are inconsistencies in what Mr S said he was doing when the car was discovered to be missing. Mr S initially said he was at the shops and ran back home when he found out the car was missing. However, when questioned later, he stated he was on his way to work and had driven back.

Considering how distressing it is to have a car stolen, I can appreciate why Calpe would have expected Mr S to recall the events more consistently when he was interviewed. But I think it's important to highlight that it had been nine months between the two interviews and almost ten months since the incident occurred, so I don't think it's unreasonable for Mr S to have forgotten some of the details of what happened at the time.

Nevertheless, Mr S maintained that he parked the car overnight and his partner first noticed the car was missing before she phoned him. He also maintained that he asked her to show him via video call before he then returned home. So, while I can understand Calpe's concerns about Mr S's statements, I don't think it means the theft didn't occur and he was attempting to claim for something he wasn't entitled to. On balance, I think it's more likely than not, that Mr S's car was stolen, and he suffered an insured loss.

I've read the police report, and it doesn't suggest the police had any concerns regarding the theft. While it appears to be quite vague, I find Mr S's statement to the police was in line with what he initially told Calpe about the incident. I can see from Calpe's investigation notes it questioned Mr S about a claim it said he made on a previous policy which was withdrawn when the policy was cancelled. Its notes show the claim wasn't investigated by Calpe and I don't think its concerns regarding that claim mean this claim is fraudulent. I've also considered the other points of concern it mentioned in its investigation notes, but I find these to be circumstantial and I don't think they're enough to conclude Mr S's claim was fraudulent.

Following their second interview with Mr S, the investigators suggested that Calpe also interview his partner, but it didn't do so. Considering his partner first noticed the car was missing and would have been a witness to the events surrounding the theft, I think what the investigators suggested was reasonable.

I also note Mr S notified Calpe during the first notification of loss phone call that there was a council operated CCTV camera nearby, but it didn't request access to the camera footage until a month later. The council then confirmed that the camera footage was not available, and it only retained footage for 28 days. In Calpe's notes, I can see it first raised concerns about the claim a day after the incident, so I think it could have attempted to obtain this footage sooner. While I accept it carried out a lengthy investigation, I think there is more it could have done to ensure its decision to decline the claim was fair.

Overall, I don't think Calpe has provided sufficient evidence to show Mr S intended to commit fraud, and benefit from cover he wasn't entitled to when he made his claim. So, I don't think its decision to decline the claim was fair or reasonable in the circumstances.

Putting things right

For the reasons I've mentioned, I'm not satisfied Calpe has sufficient evidence to support its conclusions. So, I intend to tell Calpe to settle Mr S's claim in line with the other terms of the insurance policy. It should pay 8% simple interest per annum on any settlement payment it makes directly to Mr S from the date it declined the claim until the payment is made.

It should also remove from any internal or external databases any record that it declined the claim or any fraud markers relating to it. Calpe should provide Mr S with a letter to explain this was done in error. If Mr S has taken new insurance elsewhere, he can present this letter to his current insurer if he wishes to ask them to recalculate his premium."

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.

As neither party has provided additional comments for me to consider, I see no reason to depart from what I said in my provisional decision.

My final decision

For the reasons mentioned, I uphold this complaint and require Calpe Insurance Company Limited to:

- settle Mr S's claim in line with the other terms of the insurance policy. It should pay 8% simple interest per annum on any settlement payment it makes directly to Mr S from the date it declined the claim until the payment is made.*
- It should remove from any internal or external databases any record that it declined

the claim or any fraud markers relating to it. Calpe should provide Mr S with a letter to explain this was done in error.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 22 March 2023.

Oluwatobi Balogun
Ombudsman