

complaint

Mr B and his representative are unhappy with the way Calpe Insurance Company Limited has dealt with and settled a claim on his motor insurance policy.

background

Calpe received notification that Mr B's car had been involved in an accident and was to blame for what'd happened. Calpe tried to contact Mr B the same day but couldn't reach him. So it wrote to him asking for his version of events. Seven days later it wrote again saying if it didn't hear from him the policy would be cancelled. The next day an engineer assessed Mr B's car and concluded there was no recent collision damage. Mr B also said he wasn't involved in the accident because he hadn't driven his car that day.

Calpe appointed an investigator to get a statement from Mr B. He found Mr B to be truthful and honest. Mr B said he had been out shopping when the accident was alleged to have happened and didn't take his car which was left on a neighbour's driveway.

A short time later Calpe told Mr B it'd accepted liability and would be dealing with the third party claims on the best possible terms on a without prejudice basis. It asked Mr B to pay his £3,000 excess.

Mr B and his representative are unhappy about the way Calpe has dealt with him and its decision to settle the claim as it's done.

Calpe said in its final response that it'd investigated the third party's allegations and it believed on the information provided that it wouldn't be able to defend any court proceedings. So, Mr B was liable to pay the £3,000 excess.

Our adjudicator felt this complaint should be upheld. In summary she said:

- It's not for us to determine who is at fault in an accident. That's a matter for the courts. But we can look at whether Calpe had conducted a fair investigation into the claim.
- She doesn't think the available information proves Mr B's car was involved in or caused the accident.
- Mr B said he wasn't involved in the accident and hadn't driven his car that day. He said it was on his neighbour's driveway all day. CCTV would prove this. He also confirmed he'd been out shopping at the time of the alleged accident and had gone in someone else's car. She doesn't understand why Calpe doesn't believe Mr B's version of events when its investigator found him to be both honest and truthful.
- The police log recorded the time the other party said the accident happened and suggested Mr B couldn't have been at the scene of the accident. But as it was some distance from Mr B's house there's a discrepancy between the reported time and Mr B's version of events. Calpe also didn't ask Mr B for evidence of where he was, like receipts or proof of purchases, but didn't. It could've also put Mr B's version of events to the other parties. There were also some discrepancies in their evidence.

- Calpe says two drivers of other cars gave the same registration details and version of events. But it isn't fair for Calpe to say the other two drivers involved are independent. They'd discussed things and exchanged information. There's also a photo of the car that was at fault and the description of its driver matches Mr B. But although the photo shows a black car it doesn't show its make model or registration details. Calpe accepts it wasn't given a clearer photo and it doesn't confirm this is Mr B's car.
- Although it's suggested Mr B's car clipped another the assessor confirms there's no recent damage to his car. There's also no CCTV of the accident itself. And Calpe didn't make any enquiries about this. But there's also in fact no CCTV from the neighbour to prove Mr B's car was in the drive there. But the neighbour is apparently willing to provide a statement to say it was there.
- Calpe should've sought legal advice before deciding a court wouldn't believe Mr B's version of events and admitting liability.
- Based on the available evidence Calpe hasn't conducted a fair investigation. And the evidence it's relied on doesn't prove Mr B's car was involved in the accident. Its decision to hold him at fault wasn't fair or reasonable.
- So, Calpe should amend all internal and external databases to reflect a non-fault claim. It should also cease its recovery of Mr B's all sections £3,000 policy excess and reinstate his no claims discount. It should also pay Mr B £150 compensation for the trouble, upset and inconvenience he's been caused.

Calpe maintains it wouldn't have been able to succeed in court with the little defence it had. It's asked for an ombudsman review.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I agree with the adjudicator's conclusions for the same reasons.

It's not our role to decide who's at fault for an accident. But we can look into whether Calpe has conducted a fair and reasonable investigation into a claim, when making its own decision on liability.

In this case Calpe very quickly threatened to cancel Mr B's policy despite the fact he was, contrary to what it thought, co-operating. He allowed an assessor to inspect his car and no evidence of recent collision damage was found. He also gave a statement to its investigator who concluded Mr B was truthful and honest.

Mr B says he wasn't involved in the accident and gave an account of where he was. Even so, Calpe didn't seek to confirm his version of events preferring instead to favour the information given by the other parties who it considered were independent. It also appears to have failed to try to locate any CCTV footage covering the accident scene. But it has accepted it wasn't given a clearer photo and this doesn't confirm this was Mr B's car.

Taking everything into account I don't think Calpe has shown that its investigation into this alleged accident was as comprehensive or thorough as it should've reasonably been.

Calpe also maintains it wouldn't have been able to succeed in court with the "little defence" it had. But given the parties' conflicting versions of events and the expert evidence in this case I think it would've been reasonable for Calpe to have sought legal advice on liability, and how a court might interpret the evidence on the balance of probability, before it decided to settle the case as it did.

Overall, I'm not persuaded that Calpe's investigation into this accident was fair or that its decision to settle as it did was reasonable.

I therefore think the adjudicators' recommendations are a fair and reasonable resolution of this complaint. And I don't see any compelling reason to change the proposed outcome in this case.

my final decision

I uphold this complaint. To put things right I require Calpe Insurance Company Limited:

1. To amend all internal and external databases to record this as a non-fault claim;
2. To stop its recovery of Mr B's all sections £3,000 policy excess and reinstate his no claims discount; and
3. To pay Mr B £150 compensation.

Calpe must pay the compensation within 28 days of the date on which we tell it Mr B 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 8% a year simple.

If Calpe considers that it's required by HM Revenue & Customs to withhold income tax from that interest, it should tell Mr B how much it's taken off. It should also give him 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 B to accept or reject my decision before 20 November 2017.

Stephen Cooper
ombudsman