

complaint

Mr C1 and Mr C2 have complained about Calpe Insurance Company Limited ("Calpe"). They aren't happy about the way it dealt with a claim under Mr C1's motor insurance policy.

background

Mr C2 is a named driver on Mr C1's policy. He notified Calpe that he had been involved in an accident in March 2016. In May 2016 Calpe went on to settle the third party claim and held Mr C2 at fault. Mr C2 wasn't happy as he believed the third party was at fault and felt Calpe hadn't considered his evidence.

Mr C2 says he was correctly positioned on the road and turning right around a corner. The third party was approaching the corner from the other direction and collided with Mr C2. He says the third party car was being driven by a female driver under the influence. And, the car's headlights weren't on. But when the police arrived at the scene they were told that a male was driving the car. The male passed a breathalyser test at the scene of the accident. Mr C2 had a dashcam fitted to the car and said he would submit this as evidence.

Calpe spoke to Mr C2 and said it believed he was at fault. It agreed to review the file again once it had received his evidence. After receiving the video footage Mr C2 provided, Calpe said it was clear Mr C2 turned right at a junction on the incorrect side of the road. He then collided with the third party. It said it was unclear if the third party headlights were on but the rear lights could be seen. No further evidence had been submitted to say the driver of the third party car was a woman and under the influence.

Mr C2 is also unhappy as he says the third party driver had been seen driving his own car while claiming for a hire car. He's submitted evidence of the third party driving his own car. Calpe said there is no date or time submitted with the video footage. So it couldn't rely on this evidence. The claim for the hire car was paid on 30 November 2016. Originally the third party had asked for £1,107 but Calpe felt £1,000 was reasonable.

An investigator at our service looked at the complaint and didn't uphold it. She said there was no evidence to say a female was driving the car or that she was under the influence. There's also no evidence to suggest the headlights weren't on. Calpe considered Mr C2's version of events and also considered the video footage. She said after looking at the terms and conditions of the policy Calpe are entitled to settle a claim on Mr C2's behalf even if he doesn't admit liability.

Mr C2 didn't agree with the investigator's opinion so the complaint was passed to me.

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've not looked at who is at fault in this incident as it's not our role to do so. But I've looked at whether Calpe reached its decision to settle the claim reasonably and in line with the terms and conditions.

Having reviewed the terms and conditions of the policy I'm satisfied Calpe has acted in line with them. The terms and conditions allow for Calpe to settle a claim whether Mr C2 admits

liability or not. So although Mr C2 didn't want Calpe to settle the claim, it's was its decision to make.

I understand Mr C2 feels Calpe hasn't investigated the claim properly or taken into consideration his evidence. But Calpe considered Mr C2's and the third party's version of events. It also considered the video footage provided by Mr C2. It explained why it had reached the opinion it had, outlined the evidence it had relied on and explained it had taken everything into account. I've also reviewed the video footage and I agree. So I think Calpe acted reasonably in reaching its decision.

Calpe also considered the fact Mr C2 had an ongoing complaint about the actions of the police at the scene of the accident. This was in relation to the female occupant not being breathalysed. He is still waiting for the outcome of this investigation; he wants Calpe to wait for this before settling the claim. But Calpe said it couldn't keep an unsettled claim open indefinitely. And it felt that if the evidence from the police investigation proved they hadn't investigated the incident correctly it wouldn't affect his insurance claim. This is because, whether or not the police did the right thing at the scene, the evidence Mr C2 wants wasn't gathered. And we won't be able to get that evidence now. Also Calpe determined Mr C2 was at fault from the evidence it already had. So I think it was reasonable for it to reach this conclusion.

I appreciate Mr C2 is concerned that Calpe has paid the claim for the third party hire car even though he's submitted video footage of the third party driving their own car. But the video footage doesn't have a time or date stamp. So, Calpe felt the evidence wasn't sufficient to dispute the claim. But Calpe did dispute the amount in which the third party was claiming. I think Calpe's decision to pay the claim was reasonable based on what it had.

my final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C1 and C2 to accept or reject my decision before 30 January 2017.

Jade Rowe
ombudsman